

Calendar No. 602

116TH CONGRESS
2D SESSION

S. 4393

To improve the provision of health care and other benefits from the Department of Veterans Affairs for veterans who were exposed to toxic substances, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JULY 30, 2020

Mr. TILLIS (for himself, Mrs. BLACKBURN, Ms. MCSALLY, and Mrs. CAPITO) introduced the following bill; which was read twice and referred to the Committee on Veterans' Affairs

DECEMBER 8, 2020

Reported by Mr. MORAN, with an amendment

[Strike out all after the enacting clause and insert the part printed in italic]

A BILL

To improve the provision of health care and other benefits from the Department of Veterans Affairs for veterans who were exposed 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,*

1 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

2 (a) **SHORT TITLE.**—This Act may be cited as the
 3 “**Toxic Exposure in the American Military Act of 2020**”
 4 or the “**TEAM Act of 2020**”

5 (b) **TABLE OF CONTENTS.**—The table of contents for
 6 this Act is as follows:

See. 1. Short title; table of contents.
 See. 2. Definitions.

**TITLE I—EXPANSION OF HEALTH CARE AND BENEFITS FOR
 VETERANS EXPOSED TO TOXIC SUBSTANCES**

See. 101. Consultation, testing, and treatment for certain veterans who received hazardous duty pay or were exposed to toxic substances.
 See. 102. Permanent reauthorization of authority of Secretary of Veterans Affairs to prescribe regulations providing that a presumption of service connection is warranted for a disease associated with exposure to a herbicide agent.
 See. 103. Presumptions of service connection for diseases associated with exposure to certain toxic substances.

**TITLE II—RESEARCH AND REVIEW REGARDING EXPOSURE TO
 TOXIC SUBSTANCES**

See. 201. Establishment of Toxic Exposure Review Commission.
 See. 202. Agreement with National Academies of Sciences, Engineering, and Medicine concerning the exposure of humans to toxic substances.
 See. 203. Analysis of results of consultation, testing, and treatment of veterans for disabilities related to exposure to toxic substances.
 See. 204. Report to evaluate and identify groups at-risk of exposure to toxic substances.

**TITLE III—IMPROVEMENT OF RESOURCES OF DEPARTMENT OF
 VETERANS AFFAIRS REGARDING EXPOSURES TO TOXIC SUB-
 STANCES**

See. 301. Publication of list of resources of Department of Veterans Affairs for veterans exposed to toxic substances and outreach program for such veterans and caregivers and survivors of such veterans.
 See. 302. Incorporation of toxic exposure questionnaire during primary care appointments.
 See. 303. Portal for access by veterans to individual longitudinal exposure record.
 See. 304. Training of personnel of Department of Veterans Affairs on illnesses related to exposure to toxic substances.

1 **SEC. 2. DEFINITIONS.**

2 In this Act:

3 (1) ACTIVE MILITARY, NAVAL, OR AIR SERV-
4 ICE.—The term “active military, naval, or air serv-
5 ie” has the meaning given that term in section
6 101(24) of title 38, United States Code.7 (2) TOXIC SUBSTANCE.—The term “toxic sub-
8 stance” has the meaning given that term in section
9 1720J(i) of such title, as added by section 101(a).10 **TITLE I—EXPANSION OF HEALTH
11 CARE AND BENEFITS FOR
12 VETERANS EXPOSED TO
13 TOXIC SUBSTANCES**14 **SEC. 101. CONSULTATION, TESTING, AND TREATMENT FOR
15 CERTAIN VETERANS WHO RECEIVED HAZ-
16 ARDOUS DUTY PAY OR WERE EXPOSED TO
17 TOXIC SUBSTANCES.**18 (a) IN GENERAL.—Subchapter H of chapter 17 of
19 title 38, United States Code, is amended by adding at the
20 end the following new section:21 **“§ 1720J. Consultation, testing, and treatment of vet-
22 erans for exposure to toxic substances**23 (a) IN GENERAL.—The Secretary shall furnish to
24 covered veterans—

1 “(1) covered consultation and testing regarding
2 the exposure of those veterans to toxic substances;
3 and

4 “(2) treatment for any illness relating to such
5 exposure diagnosed under subsection (b)(2), subject
6 to approval by the Under Secretary for Health.

7 “(b) COVERED CONSULTATION AND TESTING.—For
8 purposes of this section, covered consultation and testing
9 is—

10 “(1) consultation with a primary care physician
11 or other treating physician to determine whether the
12 covered veteran has an illness related to exposure to
13 a toxic substance while serving in the Armed Forces;

14 “(2) diagnosis by such physician of any illness
15 related to exposure to a toxic substance; and

16 “(3) any medical testing necessary to carry out
17 paragraphs (1) and (2), including a referral to a
18 specialist physician.

19 “(e) COVERED VETERANS.—For purposes of this sec-
20 tion, a covered veteran is a veteran who—

21 “(1) received hazardous duty incentive pay
22 under section 351 of title 37 for more than one day;
23 or

24 “(2) has been identified by the Secretary of De-
25 fense to have been possibly exposed, inside or out-

1 side the United States, during service in the Armed
2 Forces, to—

3 “(A) an open burn pit;

4 “(B) a toxic substance; or

5 “(C) a site at which members of the
6 Armed Forces were potentially exposed to a
7 toxic substance, as indicated in a database
8 shared by the Department of Defense and the
9 Department of Veterans Affairs.

10 “(d) CONSULTATION.—A covered veteran is eligible
11 under this section for three consultations each year unless
12 a treating physician for such veteran determines that more
13 consultations are necessary under subsection (b)(1).

14 “(e) PROVISION OF SERVICES.—Covered consultation
15 and testing and treatment may be provided under this sec-
16 tion at facilities of the Department or under contract ar-
17 rangements with the Department for such services.

18 “(f) DETERMINATIONS RELATING TO TREATMENT.—
19 (1) When determining whether to approve eligibility for
20 treatment under subsection (a)(2), the Under Secretary
21 for Health shall give heavy weight to the diagnosis by the
22 treating physician under subsection (b)(2).

23 “(2) The Under Secretary shall support any denial
24 of eligibility under subsection (a)(2) with specific scientific
25 evidence.

1 “(3) Determinations by the Under Secretary under
2 subsection (a)(2) shall be made not later than five busi-
3 ness days after a request for approval has been made by
4 the treating physician under subsection (b)(2).

5 “(g) INFORMATION AND TRAINING.—The Secretary
6 shall provide information and training on eligibility for
7 services under this section and the services covered under
8 this section to—

9 “(1) health care providers of the Department;
10 “(2) health care providers providing services
11 under this section under contract arrangements; and
12 “(3) covered veterans.

13 “(h) COPAYMENT.—A covered veteran is not required
14 to pay a copayment for covered consultation and testing
15 or treatment under this section.

16 “(i) DEFINITIONS.—In this section:

17 “(1) The term ‘open burn pit’ has the meaning
18 given that term in section 201(e) of the Dignified
19 Burial and Other Veterans’ Benefits Improvement
20 Act of 2012 (Public Law 112-260; 38 U.S.C. 527
21 note).

22 “(2) The term ‘toxic substance’ means a toxic-
23 eant or a toxin.

24 “(3) The term ‘toxicant’ means any substance
25 that can injure or kill humans, animals, or plants

1 and that is produced by humans or is a by-product
2 of human activities.

3 “(4) The term ‘toxin’ means any substance that
4 can injure or kill humans, animals, or plants and
5 that is produced naturally.

6 “(5) The team ‘treatment’ means any com-
7 monly accepted medical treatment practiced by the
8 medical community at large.”.

9 (b) CLERICAL AMENDMENT.—The table of sections
10 at the beginning of subchapter H of chapter 17 of such
11 title is amended by adding at the end the following new
12 item:

"1720J. Consultation, testing, and treatment of veterans for exposure to toxic substances.'

13 **SEC. 102. PERMANENT REAUTHORIZATION OF AUTHORITY**

14 **OF SECRETARY OF VETERANS AFFAIRS TO**

15 **PRESCRIBE REGULATIONS PROVIDING THAT**

16 **A PRESUMPTION OF SERVICE CONNECTION**

17 **IS WARRANTED FOR A DISEASE ASSOCIATED**

18 **WITH EXPOSURE TO A HERBICIDE AGENT.**

19 (a) IN GENERAL.—Section 1116 of title 38, United
20 States Code, is amended by striking subsection (e).

21 (b) EFFECTIVE DATE.—Subsection (a) of this section
22 and subsections (b) through (d) of section 1116 of such
23 title shall take effect on the date of the enactment of this
24 Act.

1 **SEC. 103. PRESUMPTIONS OF SERVICE CONNECTION FOR**
2 **DISEASES ASSOCIATED WITH EXPOSURE TO**
3 **CERTAIN TOXIC SUBSTANCES.**

4 (a) **IN GENERAL.**—Subchapter H of chapter 11 of
5 title 38, United States Code, is amended by adding at the
6 end the following new section:

7 **“§ 1119. Presumptions of service connection for dis-**
8 **eases associated with exposure to certain**
9 **toxic substances**

10 “(a) **PRESUMPTIONS OF SERVICE CONNECTION.**—(1)
11 For purposes of section 1110 of this title, and subject to
12 section 1113 of this title, each disease specified in para-
13 graph (2) becoming manifest as specified in that para-
14 graph shall be considered to have been incurred in or ag-
15 gravated by service referred to in that paragraph, notwith-
16 standing that there is no record of evidence of such disease
17 during the period of such service.

18 “(2) A disease specified in this paragraph is any dis-
19 ease that—

20 “(A) the Secretary determines in regulations
21 prescribed under this section warrants a presump-
22 tion of service connection by reason of having a posi-
23 tive association with exposure to a toxic substance;
24 and

25 “(B) becomes manifest within the period, if
26 any, prescribed in such regulations in a veteran who

1 was exposed to that toxic substance during active
2 military, naval, or air service.

3 “(3)(A) For purposes of this subsection, the Sec-
4 retary may presume that a veteran who has a disease spe-
5 cified in paragraph (2) was exposed to the toxic substance
6 for which the Secretary has determined under paragraph
7 (2)(A) warrants a presumption of service connection by
8 reason of having a positive association with exposure to
9 the toxic substance, notwithstanding that there is no
10 record of evidence of such exposure, if the Secretary deter-
11 mines based on one or more of the factors set forth in
12 subparagraph (B) that a presumption of exposure is war-
13 anted.

14 “(B) The factors set forth in this subparagraph are
15 as follows:

16 “(i) The duty location of the veteran.
17 “(ii) The length of service of the veteran.
18 “(iii) Such other factors as the Secretary con-
19 siders appropriate.

20 “(b) DETERMINATIONS RELATING TO DISEASES.—
21 (1) Whenever the Secretary determines, on the basis of
22 sound medical and scientific evidence, that a positive asso-
23 ciation exists between the exposure of humans to a toxic
24 substance and the occurrence of a disease in humans, the
25 Secretary shall prescribe regulations providing that a pre-

1 sumption of service connection is warranted for that dis-
2 ease for purposes of this section.

3 “(2) In making determinations under paragraph (1),
4 the Secretary shall take into account—

5 “(A) reports received by the Secretary from the
6 National Academies of Sciences, Engineering, and
7 Medicine under section 202(g) of the Toxic Expos-
8 ure in the American Military Act of 2020; and

9 “(B) all other sound medical and scientific in-
10 formation and analyses available to the Secretary.

11 “(3)(A) In evaluating any report, information, or
12 analysis for purposes of making such determinations, the
13 Secretary shall consider only scientific studies that are
14 valid in accordance with contemporary scientific stand-
15 ards.

16 “(B) The Secretary may define the standards de-
17 scribed in subparagraph (A) for purposes of that subpara-
18 graph.

19 “(e) RESPONSE TO REPORTS BY THE NATIONAL
20 ACADEMIES OF SCIENCES, ENGINEERING, AND MEDI-
21 CINE.—(1) Not later than 60 days after the date on which
22 the Secretary receives a report from the National Acad-
23 emies of Sciences, Engineering, and Medicine under sec-
24 tion 202(g) of the Toxic Exposure in the American Mili-
25 tary Act of 2020, the Secretary shall determine whether

1 a presumption of service connection is warranted for each
2 disease covered by the report.

3 “(2) If the Secretary determines under paragraph (1)
4 that a presumption of service connection is warranted for
5 a disease, the Secretary shall, not later than 60 days after
6 making the determination, issue proposed regulations set-
7 ting forth the determination.

8 “(3)(A) If the Secretary makes a determination de-
9 scribed in subparagraph (B), the Secretary shall, not later
10 than 60 days after making the determination, publish in
11 the Federal Register a notice of the determination.

12 “(B) A determination described in this subparagraph
13 is a determination by the Secretary under paragraph (1)
14 that—

15 “(i) a presumption of service connection is not
16 warranted for a disease; and

17 “(ii)(I) sufficient evidence of an association ex-
18 ists between the exposure of humans to a toxic sub-
19 stance and the occurrence of the disease in humans;
20 or

21 “(II) limited evidence or suggestive evidence of
22 such an association exists.

23 “(C) Any notice published under subparagraph (A)
24 shall include an explanation of the scientific basis for the
25 determination described in subparagraph (B).

1 “(D) If a disease already presumed to be service con-
2 neeted under this section is subject to a determination de-
3 scribed in subparagraph (B), the Secretary shall, not later
4 than 60 days after publication of the notice under sub-
5 paragraph (A), issue proposed regulations removing the
6 presumption of service connection for the disease.

7 “(4) Not later than 180 days after the date on which
8 the Secretary issues any proposed regulations under this
9 subsection, the Secretary shall issue final regulations.

10 “(d) **REMOVAL OF PRESUMPTION OF SERVICE CON-**
11 **NECTION.**—Whenever the presumption of service connec-
12 tion for a disease under this section is removed under sub-
13 section (c)—

14 “(1) a veteran who was awarded compensation
15 for the disease on the basis of the presumption be-
16 fore the effective date of the removal of the pre-
17 sumption shall continue to be entitled to receive
18 compensation on that basis; and

19 “(2) a survivor of a veteran who was awarded
20 dependency and indemnity compensation for the
21 death of a veteran resulting from the disease on the
22 basis of the presumption before that date shall con-
23 tinue to be entitled to receive dependency and in-
24 demnity compensation on that basis.

1 “(e) REFERENCE TO NATIONAL ACADEMIES OF
2 SCIENCES, ENGINEERING, AND MEDICINE.—In the case
3 that the Secretary enters into an agreement with another
4 organization as described in section 202(i)(1) of the Toxic
5 Exposure in the American Military Act of 2020, any ref-
6 erence in this section to the National Academies of
7 Sciences, Engineering, and Medicine shall be treated as
8 a reference to the other organization.

9 “(f) DEFINITIONS.—In this section:

10 “(1) The term ‘positive association’ means, with
11 respect to an association between exposure to a toxic
12 substance and the occurrence of a disease in hu-
13 mans, that there is credible evidence for the associa-
14 tion and such evidence is equal to or outweighs the
15 credible evidence against the association.

16 “(2) The term ‘toxic substance’ has the mean-
17 ing given that term in section 1720J(i) of this
18 title.”.

19 (b) CLERICAL AMENDMENT.—The table of sections
20 at the beginning of chapter 11 of such title is amended
21 by inserting after the item relating to section 1118 the
22 following new item:

“1119. Presumptions of service connection for diseases associated with exposure
to certain toxic substances.”.

1 (e) CONFORMING AMENDMENT.—Section 1113 of
2 such title is amended by striking “or 1118” each place
3 it appears and inserting “1118, or 1119”.

4 **TITLE II—RESEARCH AND RE-**
5 **VIEW REGARDING EXPOSURE**
6 **TO TOXIC SUBSTANCES**

7 **SEC. 201. ESTABLISHMENT OF TOXIC EXPOSURE REVIEW**
8 **COMMISSION.**

9 (a) IN GENERAL.—Subchapter III of chapter 5 of
10 title 38, United States Code, is amended by adding at the
11 end the following new section:

12 **“§ 547. Toxic Exposure Review Commission**

13 “(a) ESTABLISHMENT.—There is established within
14 the Department an independent commission to be known
15 as the ‘Toxic Exposure Review Commission’ (in this sec-
16 tion referred to as the ‘Commission’).

17 “(b) DUTIES.—The Commission shall carry out the
18 following duties:

19 “(1) Collect any relevant public information
20 from the Department of Defense and other sources
21 to identify possible exposures to toxic substances
22 pertaining to active military, naval, or air service.

23 “(2) Hold public meetings to gather relevant in-
24 formation regarding exposure to toxic substances.

1 “(3) Review such information to assess whether
2 to recommend that a study be conducted under sec-
3 tion 202(e) of the Toxic Exposure in the American
4 Military Act of 2020.

5 “(4) Recommend, by majority vote, whether
6 such a study should be conducted.

7 “(5) Recommend to the Secretary, by majority
8 vote, whether new, independent studies should be
9 conducted regarding the health outcomes of exposure
10 to toxic substances.

11 “(6) Annually report to Congress on progress
12 regarding the duties set forth in paragraphs (1)
13 through (5).

14 “(c) MEMBERSHIP.—(1)(A) The Commission shall be
15 composed of 9 members, appointed as follows:

16 “(i) Two members appointed by the Speaker of
17 the House of Representatives.

18 “(ii) Two members appointed by the minority
19 leader of the House of Representatives.

20 “(iii) Two members appointed by the majority
21 leader of the Senate.

22 “(iv) Two members appointed by the minority
23 leader of the Senate.

24 “(v) One member appointed by the Secretary.

1 “(B) The initial members of the Commission shall be
2 appointed under subparagraph (A) not later than 180
3 days after the date of the enactment of the Toxic Expos-
4 sure in the American Military Act of 2020.

5 “(2) In appointing individuals under paragraph
6 (1)(A), the Speaker of the House of Representatives, the
7 minority leader of the House of Representatives, the ma-
8 jority leader of the Senate, the minority leader of the Sen-
9 ate, and the Secretary shall ensure that the following
10 fields of experience are represented on the Commission:

11 “(A) The field of respiratory medicine.
12 “(B) The field of endocrinology and metabolic
13 medicine.

14 “(C) The field of hematology.
15 “(D) The field of oncology.
16 “(E) The field of public health.
17 “(F) The field of occupational and environ-
18 mental health.

19 “(3) In appointing individuals under paragraph
20 (1)(A), the Speaker of the House of Representatives, the
21 minority leader of the House of Representatives, the ma-
22 jority leader of the Senate, the minority leader of the Sen-
23 ate, and the Secretary shall ensure that at least two mem-
24 bers of the Commission represent an organization recog-

1 nized by the Secretary for the representation of veterans
2 under section 5902 of this title.

3 “(4) In appointing individuals under paragraph
4 (1)(A), the Speaker of the House of Representatives, the
5 minority leader of the House of Representatives, the ma-
6 jority leader of the Senate, the minority leader of the Sen-
7 ate, and the Secretary shall give consideration to including
8 in the Commission at least one member who works with
9 survivors of illnesses related to exposure to toxic sub-
10 stances and has a background in the field of study of expo-
11 sure to toxic substances.

12 “(d) MEETINGS.—(1) The Commission shall meet not
13 less frequently than twice each year.

14 “(2)(A) Each meeting of the Commission shall be
15 open to the public.

16 “(B) All the proceedings, information, and delibera-
17 tions of the Commission shall be available for review by
18 the public.

19 “(e) CHAIR AND VICE CHAIR.—At the initial meeting
20 of the Commission under subsection (d), the Commission
21 shall select a Chair and Vice Chair from among the mem-
22 bers of the Commission by a majority vote of the members
23 of the Commission.

24 “(f) VACANCIES.—A vacancy in the Commission shall
25 be filled in the same manner as the original appointment,

1 but the individual appointed to fill the vacancy shall serve
2 only for the unexpired portion of the term for which the
3 individual's predecessor was appointed.

4 “(g) PAY.—(1) Members of the Commission shall
5 serve without pay.

6 “(2) Each member of the Commission who is an offi-
7 cer or employee of the United States shall serve without
8 compensation in addition to that received for service as
9 an officer or employee of the United States.

10 “(3) Members shall receive travel expenses, including
11 per diem in lieu of subsistence, in accordance with sections
12 5702 and 5703 of title 5.

13 “(h) DIRECTOR OF STAFF.—(1) The Commission
14 shall appoint a Director who—

15 “(A) has not served as an employee of the De-
16 partment during the one-year period preceding the
17 date of such appointment; and

18 “(B) is not otherwise barred or prohibited from
19 serving as Director under Federal ethics laws and
20 regulations, by reason of post-employment conflict of
21 interest.

22 “(2) The Director shall be paid at the rate of basic
23 pay payable for level IV of the Executive Schedule under
24 section 5315 of title 5.

1 "(i) STAFF.—(1) Subject to paragraphs (2) and (3),
2 the Director, with the approval of the Commission, may
3 appoint and fix the pay of additional personnel.

4 "(2) The Director may make such appointments
5 without regard to the provisions of title 5 governing ap-
6 pointments in the competitive service, and any personnel
7 so appointed may be paid without regard to the provisions
8 of chapter 51 and subchapter III of chapter 53 of that
9 title relating to classification and General Schedule pay
10 rates, except that an individual so appointed may not re-
11 ceive pay in excess of the annual rate of basic pay payable
12 for GS-15 of the General Schedule.

13 "(3)(A) Not more than two-thirds of the personnel
14 employed by or detailed to the Commission may be on de-
15 tail from the Department.

16 "(B) Not more than half of the professional analysts
17 of the Commission staff may be persons detailed from the
18 Department to the Commission.

19 "(4) Subject to paragraph (3), the head of any Fed-
20 eral agency, upon the request of the Director, may detail
21 any of the personnel of that agency to the Commission
22 to assist the Commission in carrying out its duties under
23 this section.

24 "(5) The Commission may secure directly from any
25 Federal agency such information as the Commission con-

1 siders necessary to carry out this section. Upon request
2 of the Chair, the head of such agency shall furnish such
3 information to the Commission, unless such information
4 is classified.

5 “(j) OTHER AUTHORITY.—(1) The Commission may
6 procure by contract, to the extent funds are available, the
7 temporary or intermittent services of experts or consult-
8 ants pursuant to section 3109 of title 5.

9 “(2) To the extent funds are available, the Commis-
10 sion may lease real property and acquire personal property
11 either of its own accord or in consultation with the General
12 Services Administration.

13 “(k) COMMUNICATIONS.—(1)(A) Except as provided
14 in subparagraph (B), no person may restrict an employee
15 of the Department in communicating with the Commis-
16 sion.

17 “(B) Subparagraph (A) does not apply to a commu-
18 nication that is unlawful.

19 “(2) All ex parte communications with the Commis-
20 sion shall be made part of the public record.”.

21 (b) CLERICAL AMENDMENT.—The table of sections
22 at the beginning of such subchapter is amended by adding
23 at the end the following new item:

“547. Toxic Exposure Review Commission.”.

1 **SEC. 202. AGREEMENT WITH NATIONAL ACADEMIES OF**
2 **SCIENCES, ENGINEERING, AND MEDICINE**
3 **CONCERNING THE EXPOSURE OF HUMANS TO**
4 **TOXIC SUBSTANCES.**

5 (a) **PURPOSE.**—The purpose of this section is to pro-
6 vide for the National Academies of Sciences, Engineering,
7 and Medicine (in this section referred to as the “Aca-
8 demies”), an independent nonprofit scientific organization
9 with appropriate expertise that is not part of the Federal
10 Government, to review and evaluate the available scientific
11 evidence regarding associations between diseases and ex-
12 posure to toxic substances.

13 (b) **AGREEMENT.**—

14 (1) **IN GENERAL.**—The Secretary of Veterans
15 Affairs shall seek to enter into an agreement with
16 the Academies to perform the services covered by
17 this section.

18 (2) **TIMING.**—The Secretary shall seek to enter
19 into an agreement described in paragraph (1) not
20 later than 60 days after the date of the enactment
21 of this Act.

22 (e) **REVIEW OF SCIENTIFIC EVIDENCE.**—Under an
23 agreement between the Secretary and the Academies
24 under this section, the Academies shall review and summa-
25 rize the scientific evidence, and assess the strength there-
26 of, concerning the association between exposure to toxic

1 substances during active military, naval, or air service and
2 each disease suspected to be associated with such exposure
3 in the human population.

4 (d) SCIENTIFIC DETERMINATIONS CONCERNING DIS-
5 EASES.—For each disease reviewed under subsection (e),
6 the Academies shall determine, to the extent that available
7 scientific data permit meaningful determinations—

8 (1) whether an association exists between expo-
9 sure to toxic substances and the occurrence of the
10 disease, taking into account the strength of the sci-
11 entific evidence and the appropriateness of the sta-
12 tistical and epidemiological methods used to detect
13 the association;

14 (2) the increased risk of the disease among
15 those exposed to toxic substances during active mili-
16 tary, naval, or air service; and

17 (3) whether there exists a plausible biological
18 mechanism or other evidence of a causal relationship
19 between the exposure and the occurrence of the dis-
20 ease.

21 (e) SCIENTIFIC STUDIES.—

22 (1) IN GENERAL.—Under an agreement be-
23 tween the Secretary and the Academies under this
24 section, the Academies shall conduct such scientific
25 studies as the Toxic Exposure Review Commission

1 recommends pursuant to section 547(b)(4) of title
2 38, United States Code, as added by section 201(a).

3 **(2) RECOMMENDATIONS FOR ADDITIONAL SCI-
4 ENTIFIC STUDIES.—**

5 **(A) IN GENERAL.**—Under an agreement
6 between the Secretary and the Academies under
7 this section, the Academies shall make any re-
8 commendations for additional scientific studies
9 to resolve areas of continuing scientific uncer-
10 tainty relating to the exposure of humans to
11 toxic substances.

12 **(B) CONSIDERATIONS.**—In making re-
13 commendations under subparagraph (A), the
14 Academies shall consider—

15 (i) the scientific information that is
16 available at the time of the recommenda-
17 tion;

18 (ii) the value and relevance of the in-
19 formation that could result from additional
20 studies; and

21 (iii) the cost and feasibility of ear-
22 rying out such additional studies.

23 **(f) SUBSEQUENT REVIEWS.**—Under an agreement
24 between the Secretary and the Academies under this sec-
25 tion, the Academies shall—

1 (1) conduct as comprehensive a review as is
2 practicable of the evidence referred to in subsection
3 (e) that became available since the last review of
4 such evidence under this section; and

5 (2) make determinations and estimates on the
6 basis of the results of such review and all other re-
7 views conducted for the purposes of this section.

8 (g) ~~REPORTS.~~—

9 (1) INITIAL REPORT.—

10 (A) IN GENERAL.—Under an agreement
11 between the Secretary and the Academies under
12 this section, not later than one year after the
13 date of the enactment of this Act, the Acad-
14 emies shall submit to the Secretary, the Com-
15 mittee on Veterans' Affairs of the Senate, and
16 the Committee on Veterans' Affairs of the
17 House of Representatives an initial report on
18 the activities of the Academies under the agree-
19 ment.

20 (B) ELEMENTS.—The report submitted
21 under subparagraph (A) shall include the fol-
22 lowing:

23 (i) The determinations described in
24 subsection (d).

(ii) A full explanation of the scientific evidence and reasoning that led to such determinations.

(iii) Any recommendations of the Academies under subsection (e)(2).

(iv) The recommendation described in subparagraph (C).

(C) RECOMMENDATION FOR IMPLEMENTATION OF ANALYSIS OF EXAMINATIONS AND TREATMENT OF VETERANS FOR DISABILITIES RELATED TO EXPOSURE TO TOXIC SUBSTANCES.—

(i) IN GENERAL.—The recommendation described in this subparagraph is the recommendation of the Academies as to whether section 203 should take effect as provided in subsection (d) of such section.

(ii) CONSIDERATIONS.—In making a recommendation under clause (i), the Academies shall consider—

(1) the scientific information that is available at the time of the recommendation.

(H) the value and relevance of the information that could result from

1 the implementation of section 203,
2 and

3 (III) the cost and feasibility of
4 such implementation.

22 (h) LIMITATION ON AUTHORITY.—The authority to
23 enter into agreements under this section shall be effective
24 for a fiscal year to the extent that appropriations are
25 available for such purpose.

1 (i) ALTERNATIVE CONTRACT SCIENTIFIC ORGANIZA-
2 TION.—

3 (1) IN GENERAL.—If the Secretary is unable
4 within the time period prescribed in subsection
5 (b)(2) to enter into an agreement with the Acad-
6 emies for the purposes of this section on terms ac-
7 ceptable to the Secretary, the Secretary shall seek to
8 enter into an agreement for the purposes of this sec-
9 tion with another appropriate scientific organization
10 that—

11 (A) is not part of the Federal Government;
12 (B) operates as a ~~not-for-profit~~ entity; and
13 (C) has expertise and objectivity com-
14 parable to that of the Academies.

15 (2) TREATMENT.—If the Secretary enters into
16 an agreement with another organization as described
17 in paragraph (1), any reference in this section, sec-
18 tion 203, and section 1119 of title 38, United States
19 Code, as added by section 102(a), to the National
20 Academies of Sciences, Engineering, and Medicine
21 shall be treated as a reference to the other organiza-
22 tion.

1 **SEC. 203. ANALYSIS OF RESULTS OF CONSULTATION, TEST-**
2 **ING, AND TREATMENT OF VETERANS FOR**
3 **DISABILITIES RELATED TO EXPOSURE TO**
4 **TOXIC SUBSTANCES.**

5 (a) **IN GENERAL.**—The Secretary of Veterans Affairs
6 shall compile and analyze, on a continuous basis, all clin-
7 ical data that—

8 (1) is obtained by the Department of Veterans
9 Affairs in connection with consultation, testing, and
10 treatment furnished to veterans by the Department
11 under section 1720J of title 38, United States Code,
12 as added by section 101(a); and

13 (2) is likely to be scientifically useful in deter-
14 mining the association, if any, between the disability
15 of a veteran and exposure to a toxic substance.

16 (b) **CONSENT OF PATIENTS.**—Compilation and anal-
17 ysis by the Secretary of clinical data of a veteran under
18 subsection (a) shall be conducted, and such data shall be
19 used, consistent with the informed consent of the veteran
20 and in compliance with all applicable Federal law.

21 (c) **ANNUAL REPORT.**—Not later than one year after
22 the effective date under subsection (d), and annually
23 thereafter, the Secretary shall submit to the Committee
24 on Veterans' Affairs of the Senate and the Committee on
25 Veterans' Affairs of the House of Representatives a report
26 containing—

1 (1) the information compiled under subsection

2 (a);

3 (2) an analysis of such information;

11 (5) the views of the Secretary on the scientific
12 validity of drawing conclusions from the incidence of
13 such disabilities, as evidenced by the data compiled
14 under subsection (a), regarding any association be-
15 tween such disabilities and exposure to a toxic sub-
16 stance.

17 (d) EFFECTIVE DATE.—

1 scribed in paragraph (1) and before the end of the
2 90-day period described in such paragraph—

3 (A) determines that it is not feasible or
4 cost-effective to carry out this section or that
5 carrying out this section would not make a ma-
6 terial contribution to the body of scientific
7 knowledge concerning the health effects in hu-
8 mans of herbicide exposure; and

9 (B) notifies the Committee on Veterans'
10 Affairs of the Senate and the Committee on
11 Veterans' Affairs of the House of Representa-
12 tives of that determination and the reasons
13 therefor.

14 **SEC. 204. REPORT TO EVALUATE AND IDENTIFY GROUPS**

15 **AT-RISK OF EXPOSURE TO TOXIC SUB-
16 STANCES.**

17 (a) IN GENERAL.—Not later than one year after the
18 date of the enactment of this Act, and every two years
19 thereafter, the Secretary of Defense shall submit to the
20 appropriate committees of Congress and, subject to appli-
21 eable Federal privacy laws, make available to the public
22 a report evaluating and identifying the groups of members
23 of the Armed Forces and former members of the Armed
24 Forces who are at risk of exposure to toxic substances.

1 (b) EXISTING DATA.—The Secretary shall use data
2 from existing record and tracking systems to develop each
3 report under subsection (a).

4 (e) USE OF CAPABILITIES OF NATIONAL ARTIFICIAL
5 INTELLIGENCE INSTITUTE.—In developing each report
6 under subsection (a), the Secretary shall use the capabili-
7 ties of the National Artificial Intelligence Institute of the
8 Department of Veterans Affairs to interpret the veteran
9 population data within the Individual Longitudinal Expo-
10 sure Record of the Department, including data compiled
11 under—

12 (1) the Million Veteran Program of the Depart-
13 ment;

14 (2) health records of veterans; and
15 (3) benefits records of veterans.

16 (d) ELEMENTS OF REPORT.—Each report submitted
17 under subsection (a) shall—

18 (1) identify groups at a high-risk for illnesses
19 relating to exposure to toxic substances and re-
20 commend an outreach strategy for those groups; and

21 (2) determine the viability of correlating the In-
22 dividual Longitudinal Exposure Record and health
23 records maintained by the Veterans Health Adminis-
24 tration, including with respect to participation of a
25 veteran in the Million Veteran Program of the De-

1 partment, to provide more data to epidemiologists of
2 the Department.

3 (e) APPROPRIATE COMMITTEES OF CONGRESS DE-
4 FINED.—In this section, the term “appropriate commit-
5 tees of Congress” means—

6 (1) the Committee on Armed Services and the
7 Committee on Veterans' Affairs of the Senate; and

8 (2) the Committee on Armed Services and the
9 Committee on Veterans' Affairs of the House of

10 Representatives.

11 **TITLE III—IMPROVEMENT OF**

12 **RESOURCES OF DEPARTMENT**

13 **OF VETERANS AFFAIRS RE-**

14 **GARDING EXPOSURES TO**

15 **TOXIC SUBSTANCES**

22 (a) PUBLICATION OF LIST OF RESOURCES.—

1 shall publish a list of resources of the Department
2 of Veterans Affairs for—

3 (A) veterans provided disability compensa-
4 tion under chapter 11 of title 38, United States
5 Code, relating to exposure to toxic substances;

6 (B) veterans eligible for consultation, test-
7 ing, and treatment under section 1720J of such
8 title, as added by section 101(a);

9 (C) caregivers of veterans described in sub-
10 paragraph (A) or (B) who are participating in
11 the program of comprehensive assistance for
12 family caregivers under section 1720G(a) of
13 such title; and

14 (D) survivors of veterans described in sub-
15 paragraph (A) or (B) (or who would be de-
16 scribed in any such subparagraph were the vet-
17 eran alive) who are receiving death benefits
18 under the laws administered by the Secretary.

19 (2) UPDATE.—The Secretary shall periodically
20 update the list published under paragraph (1).

21 (b) OUTREACH.—The Secretary shall develop, with
22 input from the community, an informative outreach pro-
23 gram for veterans on illnesses that may be related to expo-
24 sure to toxic substances, including outreach with respect
25 to benefits and support programs.

1 **SEC. 302. INCORPORATION OF TOXIC EXPOSURE QUES-**
2 **TIONNAIRE DURING PRIMARY CARE AP-**
3 **POINTMENTS.**

4 (a) **IN GENERAL.**—The Secretary of Veterans Affairs
5 shall incorporate a clinical questionnaire to help determine
6 potential exposure to toxic substances during active mili-
7 tary, naval, or air service as part of the initial screening
8 conducted for an appointment of a veteran with a primary
9 care provider of the Department of Veterans Affairs to
10 improve understanding by the Department of exposure of
11 veterans to toxic substances while serving in the Armed
12 Forces.

13 (b) **DETERMINATION OF QUESTIONS.**—The questions
14 included in the questionnaire required under subsection
15 (a) shall be determined by the Secretary with input from
16 medical professionals.

17 **SEC. 303. PORTAL FOR ACCESS BY VETERANS TO INDIVI-**
18 **VIDUAL LONGITUDINAL EXPOSURE RECORD.**

19 (a) **IN GENERAL.**—The Secretary of Veterans Affairs
20 shall establish a portal through which a veteran may ac-
21 cess documents and information with respect to the vet-
22 eran contained in the Individual Longitudinal Exposure
23 Record of the Department of Veterans Affairs.

24 (b) **ELEMENTS OF PORTAL.**—The portal established
25 under subsection (a) shall—

1 (1) present documents and information with re-
2 spect to a veteran contained in the Individual Longi-
3 tudinal Exposure Record of the veteran in a print-
4 able, read-only format; and

5 (2) be hosted on an internet website of the Department that is commonly used by veterans.

7 SEC. 304. TRAINING OF PERSONNEL OF DEPARTMENT OF
8 VETERANS AFFAIRS ON ILLNESSES RELATED
9 TO EXPOSURE TO TOXIC SUBSTANCES.

10 (a) IN GENERAL.—The Secretary of Veterans Affairs
11 shall ensure that personnel of the Department of Veterans
12 Affairs, including personnel involved with establishing dis-
13 ability ratings under the laws administered by the Sec-
14 retary, and non-Department health care personnel who
15 provide care to veterans under the laws administered by
16 the Secretary are appropriately trained to identify, treat,
17 and assess the impact of illnesses related to exposure to
18 toxic substances.

19 (b) ELEMENTS OF TRAINING.—The training required
20 under subsection (a) shall—

21 (1) provide veterans and personnel with specific
22 education with respect to illnesses related to expo-
23 sure to toxic substances;

1 (2) inform disability raters of secondary effects
 2 that can be attributed to exposure to toxic sub-
 3 stances; and

4 (3) inform personnel of how to probe for addi-
 5 tional information regarding exposures to different
 6 toxicants.

7 (e) **TOXICANT DEFINED.**—In this section, the term
 8 “toxicant” has the meaning given that term in section
 9 1720J(i) of title 38, United States Code, as added by sec-
 10 tion 101(a).

11 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

12 (a) **SHORT TITLE.**—*This Act may be cited as the
 13 “Toxic Exposure in the American Military Act of 2020”
 14 or the “TEAM Act of 2020”.*

15 (b) **TABLE OF CONTENTS.**—*The table of contents for
 16 this Act is as follows:*

Sec. 1. Short title; table of contents.

Sec. 2. Definitions.

**TITLE I—EXPANSION OF HEALTH CARE AND BENEFITS FOR
 VETERANS EXPOSED TO TOXIC SUBSTANCES**

*Sec. 101. Expansion of health care eligibility for certain individuals exposed to
 open burn pits and other toxic substances.*

*Sec. 102. Expansion of health care eligibility for veterans awarded certain med-
 als.*

*Sec. 103. Permanent reauthorization of authority of Secretary of Veterans Affairs
 to prescribe regulations providing that a presumption of service
 connection is warranted for a disease associated with exposure
 to a herbicide agent.*

*Sec. 104. Permanent reauthorization of authority of Secretary of Veterans Affairs
 to prescribe regulations providing that a presumption of service
 connection is warranted for an illness associated with service in
 the Persian Gulf during the Persian Gulf War.*

*Sec. 105. Presumptions of service connection for diseases associated with exposure
 to certain toxic substances.*

**TITLE II—RESEARCH AND REVIEW REGARDING EXPOSURE TO
TOXIC SUBSTANCES**

Sec. 201. *Establishment of Toxic Exposure Review Commission.*
 Sec. 202. *Agreement with National Academies of Sciences, Engineering, and Medicine concerning the exposure of humans to toxic substances.*
 Sec. 203. *Collection, analysis, and report on treatment of veterans for medical conditions related to exposure to toxic substances.*

TITLE III—IMPROVEMENT OF RESOURCES OF DEPARTMENT OF VETERANS AFFAIRS REGARDING EXPOSURES TO TOXIC SUBSTANCES

Sec. 301. *Publication of list of resources of Department of Veterans Affairs for veterans exposed to toxic substances and outreach program for such veterans and caregivers and survivors of such veterans.*
 Sec. 302. *Incorporation of toxic exposure questionnaire during primary care appointments.*
 Sec. 303. *Portal for access by veterans to Individual Longitudinal Exposure Record.*
 Sec. 304. *Training of health care personnel of Department of Veterans Affairs on illnesses related to exposure to toxic substances.*

1 SEC. 2. DEFINITIONS.

2 In this Act:

3 **(1) ACTIVE MILITARY, NAVAL, OR AIR SERVICE.—**
 4 *The term “active military, naval, or air service” has*
 5 *the meaning given that term in section 101 of title*
 6 *38, United States Code.*

7 **(2) OPEN BURN PIT.—***The term “open burn pit”*
 8 *has the meaning given that term in section 201(c) of*
 9 *the Dignified Burial and Other Veterans’ Benefits*
 10 *Improvement Act of 2012 (Public Law 112–260; 38*
 11 *U.S.C. 527 note).*

12 **(3) TOXIC SUBSTANCE.—***The term “toxic sub-*
 13 *stance” has the meaning given that term in subpara-*
 14 *graph (G)(iv) of section 1710(e)(1) of such title, as*
 15 *added by section 101(a).*

1 ***TITLE I—EXPANSION OF HEALTH***
2 ***CARE AND BENEFITS FOR***
3 ***VETERANS EXPOSED TO***
4 ***TOXIC SUBSTANCES***

5 ***SEC. 101. EXPANSION OF HEALTH CARE ELIGIBILITY FOR***
6 ***CERTAIN INDIVIDUALS EXPOSED TO OPEN***
7 ***BURN PITS AND OTHER TOXIC SUBSTANCES.***

8 *(a) IN GENERAL.*—Section 1710(e) of title 38, *United*
9 *States Code*, is amended—

10 *(1) in paragraph (1), by adding at the end the*
11 *following new subparagraph:*

12 *“(G)(i) Subject to paragraph (2), a covered individual*
13 *is eligible for hospital care, medical services, and nursing*
14 *home care under subsection (a)(2)(F) for any illness.*

15 *“(ii) For purposes of this subparagraph, a covered in-*
16 *dividual is an individual who—*

17 *“(I) is eligible for inclusion in the Airborne Haz-*
18 *ards and Open Burn Pit Registry; or*

19 *“(II) has been identified by the Secretary of De-*
20 *fense to have been possibly exposed, inside or outside*
21 *the United States, during active duty, active duty for*
22 *training, or inactive duty training, to—*

23 *“(aa) an open burn pit;*

24 *“(bb) a toxic substance; or*

1 “(cc) a site included in a database main-
2 tained by the Department of Defense and shared
3 with the Department of Veterans Affairs to serve
4 as the central portal for exposure-related data
5 that compiles, collates, presents, and provides
6 available occupational and environmental expo-
7 sure information to support the needs of the De-
8 partment of Defense and the Department of Vet-
9 erans Affairs.

10 “(iii) A covered individual shall be enrolled in the sys-
11 tem of annual patient enrollment of the Department in the
12 priority group under subsection (a)(6) of section 1705 of
13 this title.

14 “(iv) In this subparagraph:

15 “(I) The term ‘Airborne Hazards and Open
16 Burn Pit Registry’ means the registry established by
17 the Secretary under section 201 of the Dignified Bur-
18 ial and Other Veterans’ Benefits Improvement Act of
19 2012 (Public Law 112-260; 38 U.S.C. 527 note).

20 “(II) The term ‘open burn pit’ has the meaning
21 given that term in section 201(c) of the Dignified
22 Burial and Other Veterans’ Benefits Improvement Act
23 of 2012 (Public Law 112-260; 38 U.S.C. 527 note).

24 “(III) The term ‘toxic substance’ means a toxi-
25 cant or a toxin.

1 “(IV) The term ‘toxicant’ means any substance
2 that can injure or kill humans, animals, or plants
3 and that is produced by humans or is a by-product
4 of human activities.

5 “(V) The term ‘toxin’ means any substance that
6 can injure or kill humans, animals, or plants and
7 that is produced naturally.”; and

8 (2) in paragraph (2)(B), by striking “or (F)”
9 and inserting “(F), or (G)”.

10 (b) *EFFECTIVE DATE*.—The amendments made by sub-
11 section (a) shall take effect on the date that is 90 days after
12 the date of the enactment of this Act.

13 (c) *DETERMINATIONS OF EXPOSURE*.—

14 (1) *IN GENERAL*.—The Secretary of Veterans Af-
15 fairs shall, to the extent practicable, establish and
16 maintain a mechanism by which veterans may deter-
17 mine whether or not they have been possibly exposed
18 to an open burn pit or toxic substance described in
19 subparagraph (G)(ii)(II) of section 1710(e)(1) of title
20 38, *United States Code*, as added by subsection (a),
21 for purposes of being considered as covered individ-
22 uals under such subparagraph.

23 (2) *APPROVAL OF SECRETARY*.—Any determina-
24 tion made under paragraph (1) shall be subject to the
25 approval of the Secretary.

4 (d) REPORT.—

19 (B) The evidence considered in identifying
20 individuals who were possibly exposed to an
21 open burn pit, toxic substance, or site as de-
22 scribed in subparagraph (G)(ii)(II) of section
23 1710(e)(1) of title 38, United States Code, as
24 added by subsection (a).

(C) The criteria used to determine whether an individual was so exposed.

3 (3) APPROPRIATE COMMITTEES OF CONGRESS.—

4 *In this subsection, the term “appropriate committees*
5 *of Congress” means—*

12 SEC. 102. EXPANSION OF HEALTH CARE ELIGIBILITY FOR
13 VETERANS AWARDED CERTAIN MEDALS.

14 (a) *IN GENERAL.*—Section 1710(e) of title 38, United
15 States Code, as amended by section 101(a), is further
16 amended—

19 “(H)(i) Subject to paragraph (2), a veteran is eligible
20 for hospital care, medical services, and nursing home care
21 under subsection (a)(2)(F) for any illness if the veteran was
22 awarded any of the following:

23 “(I) *The Armed Forces Service Medal.*

24 “(II) *The Afghanistan Campaign Medal.*

1 “(III) *The Global War on Terrorism Expeditionary Medal.*

3 “(IV) *The Inherent Resolve Campaign Medal.*

4 “(V) *The Iraq Campaign Medal.*

5 “(VI) *The Southwest Asia Service Medal.*

6 “(ii) *A veteran described in clause (i) shall be enrolled*
7 *in the system of annual patient enrollment of the Depart-*
8 *ment in the priority group under subsection (a)(6) of sec-*
9 *tion 1705 of this title.”; and*

10 “(2) *in paragraph (2), by striking “or (G)” and*
11 *inserting “(G), or (H)”.*

12 (b) *EFFECTIVE DATE.—The amendments made by sub-*
13 *section (a) shall take effect on the date that is 90 days after*
14 *the date of the enactment of this Act.*

15 **SEC. 103. PERMANENT REAUTHORIZATION OF AUTHORITY**
16 **OF SECRETARY OF VETERANS AFFAIRS TO**
17 **PRESCRIBE REGULATIONS PROVIDING THAT**
18 **A PRESUMPTION OF SERVICE CONNECTION IS**
19 **WARRANTED FOR A DISEASE ASSOCIATED**
20 **WITH EXPOSURE TO A HERBICIDE AGENT.**

21 (a) *IN GENERAL.—Section 1116 of title 38, United*
22 *States Code, is amended by striking subsection (e).*

23 (b) *EFFECTIVE DATE.—Subsection (a) of this section*
24 *and subsections (b) through (d) of section 1116 of such title*
25 *shall take effect on the date of the enactment of this Act.*

1 **SEC. 104. PERMANENT REAUTHORIZATION OF AUTHORITY**

2 **OF SECRETARY OF VETERANS AFFAIRS TO**
3 **PRESCRIBE REGULATIONS PROVIDING THAT**
4 **A PRESUMPTION OF SERVICE CONNECTION IS**
5 **WARRANTED FOR AN ILLNESS ASSOCIATED**
6 **WITH SERVICE IN THE PERSIAN GULF DUR-**
7 **ING THE PERSIAN GULF WAR.**

8 (a) *IN GENERAL.*—Section 1118 of title 38, *United*
9 *States Code, is amended by striking subsection (e).*

10 (b) *EFFECTIVE DATE.*—Subsection (a) of this section
11 and subsections (b) through (d) of section 1118 of such title
12 shall take effect on the date of the enactment of this Act.

13 **SEC. 105. PRESUMPTIONS OF SERVICE CONNECTION FOR**
14 **DISEASES ASSOCIATED WITH EXPOSURE TO**
15 **CERTAIN TOXIC SUBSTANCES.**

16 (a) *IN GENERAL.*—Subchapter II of chapter 11 of title
17 38, *United States Code, is amended by adding at the end*
18 *the following new section:*

19 “**§ 1119. Presumptions of service connection for dis-**
20 **eases associated with exposure to certain**
21 **toxic substances**

22 “(a) *PRESUMPTIONS OF SERVICE CONNECTION.*—(1)
23 *For purposes of section 1110 of this title, and subject to*
24 *section 1113 of this title, each disease specified in para-*
25 *graph (2) becoming manifest as specified in that paragraph*
26 *shall be considered to have been incurred in or aggravated*

1 *by service referred to in that paragraph, notwithstanding*
2 *that there is no record of evidence of such disease during*
3 *the period of such service.*

4 “(2) *A disease specified in this paragraph is any dis-*
5 *ease that—*

6 “(A) *the Secretary determines in regulations pre-*
7 *scribed under this section warrants a presumption of*
8 *service connection by reason of having a positive asso-*
9 *ciation with exposure to a toxic substance; and*

10 “(B) *becomes manifest within the period, if any,*
11 *prescribed in such regulations in a veteran who was*
12 *exposed to that toxic substance during active mili-*
13 *tary, naval, or air service.*

14 “(3)(A) *For purposes of this subsection, the Secretary*
15 *may presume that a veteran who has a disease specified*
16 *in paragraph (2) was exposed to the toxic substance for*
17 *which the Secretary has determined under paragraph*
18 *(2)(A) warrants a presumption of service connection by rea-*
19 *son of having a positive association with exposure to the*
20 *toxic substance, notwithstanding that there is no record of*
21 *evidence of such exposure, if the Secretary determines based*
22 *on one or more of the factors set forth in subparagraph (B)*
23 *that a presumption of exposure is warranted.*

24 “(B) *The factors set forth in this subparagraph are as*
25 *follows:*

1 “(i) *The duty location of the veteran.*
2 “(ii) *The length of service of the veteran.*
3 “(iii) *Such other factors as the Secretary con-*
4 *siders appropriate.*

5 “(b) *DETERMINATIONS RELATING TO DISEASES.*—(1)
6 *Whenever the Secretary determines, on the basis of sound*
7 *medical and scientific evidence, that a positive association*
8 *exists between the exposure of humans to a toxic substance*
9 *and the occurrence of a disease in humans, the Secretary*
10 *shall prescribe regulations providing that a presumption of*
11 *service connection is warranted for that disease for purposes*
12 *of this section.*

13 “(2) *In making determinations under paragraph (1),*
14 *the Secretary shall take into account—*

15 “(A) *reports received by the Secretary from the*
16 *National Academies of Sciences, Engineering, and*
17 *Medicine under section 202(g) of the Toxic Exposure*
18 *in the American Military Act of 2020; and*

19 “(B) *all other sound medical and scientific infor-*
20 *mation and analyses available to the Secretary.*

21 “(3)(A) *In evaluating any report, information, or*
22 *analysis for purposes of making such determinations, the*
23 *Secretary shall consider only scientific studies that are*
24 *valid in accordance with contemporary scientific standards.*

1 “(B) The Secretary may define the standards described
2 in subparagraph (A) for purposes of that subparagraph.

3 “(c) *RESPONSE TO REPORTS BY THE NATIONAL ACAD-
4 EMIES OF SCIENCES, ENGINEERING, AND MEDICINE.*—(1)
5 Not later than 60 days after the date on which the Secretary
6 receives a report from the National Academies of Sciences,
7 Engineering, and Medicine under section 202(g) of the
8 *Toxic Exposure in the American Military Act of 2020*, the
9 Secretary shall determine whether a presumption of service
10 connection is warranted for each disease covered by the re-
11 port.

12 “(2) If the Secretary determines under paragraph (1)
13 that a presumption of service connection is warranted for
14 a disease, the Secretary shall, not later than 60 days after
15 making the determination, issue proposed regulations set-
16 ting forth the determination.

17 “(3)(A) If the Secretary makes a determination de-
18 scribed in subparagraph (B), the Secretary shall, not later
19 than 60 days after making the determination, publish in
20 the *Federal Register* a notice of the determination.

21 “(B) A determination described in this subparagraph
22 is a determination by the Secretary under paragraph (1)
23 that a presumption of service connection is not warranted
24 for a disease as to which the National Academies of

1 *Sciences, Engineering, and Medicine determined that there*
2 *was—*

3 “(i) sufficient evidence of an association between
4 the exposure of humans to a toxic substance and the
5 occurrence of the disease in humans; or

6 “(ii) limited evidence or suggestive evidence of
7 such an association.

8 “(C) Any notice published under subparagraph (A)
9 shall include an explanation of the scientific basis for the
10 determination described in subparagraph (B).

11 “(D) If a disease already presumed to be service con-
12 nected under this section is subject to a determination de-
13 scribed in subparagraph (B), the Secretary shall, not later
14 than 60 days after publication of the notice under subpara-
15 graph (A), issue proposed regulations removing the pre-
16 sumption of service connection for the disease.

17 “(4) Not later than 180 days after the date on which
18 the Secretary issues any proposed regulations under this
19 subsection, the Secretary shall issue final regulations.

20 “(d) *REMOVAL OF PRESUMPTION OF SERVICE CON-*
21 *NECTION.*—Whenever the presumption of service connection
22 for a disease under this section is removed under subsection
23 (c)—

24 “(1) a veteran who was awarded compensation
25 for the disease on the basis of the presumption before

1 *the effective date of the removal of the presumption*
2 *shall continue to be entitled to receive compensation*
3 *on that basis; and*

4 *“(2) a survivor of a veteran who was awarded*
5 *dependency and indemnity compensation for the*
6 *death of a veteran resulting from the disease on the*
7 *basis of the presumption before that date shall con-*
8 *tinue to be entitled to receive dependency and indem-*
9 *nity compensation on that basis.*

10 “(e) *REFERENCE TO NATIONAL ACADEMIES OF*
11 *SCIENCES, ENGINEERING, AND MEDICINE.*—*In the case that*
12 *the Secretary enters into an agreement with another organi-*
13 *zation as described in section 202(h)(1) of the Toxic Expo-*
14 *sure in the American Military Act of 2020, any reference*
15 *in this section to the National Academies of Sciences, Engi-*
16 *neering, and Medicine shall be treated as a reference to the*
17 *other organization.*

18 “(f) *DEFINITIONS.*—*In this section:*

19 *“(1) The term ‘positive association’ means, with*
20 *respect to an association between exposure to a toxic*
21 *substance and the occurrence of a disease in humans,*
22 *that there is credible evidence for the association and*
23 *such evidence is equal to or outweighs the credible evi-*
24 *dence against the association.*

1 “(2) The term ‘toxic substance’ has the meaning
2 given that term in section 1710(e)(1)(G)(iv) of this
3 title.”.

4 (b) *CLERICAL AMENDMENT.*—The table of sections at
5 the beginning of chapter 11 of such title is amended by in-
6 serting after the item relating to section 1118 the following
7 new item:

“1119. Presumptions of service connection for diseases associated with exposure to
certain toxic substances.”.

8 (c) *CONFORMING AMENDMENT.*—Section 1113 of such
9 title is amended by striking “or 1118” each place it appears
10 and inserting “1118, or 1119”.

11 **TITLE II—RESEARCH AND RE-
12 VIEW REGARDING EXPOSURE
13 TO TOXIC SUBSTANCES**

14 **SEC. 201. ESTABLISHMENT OF TOXIC EXPOSURE REVIEW
15 COMMISSION.**

16 (a) *IN GENERAL.*—Subchapter III of chapter 5 of title
17 38, United States Code, is amended by adding at the end
18 the following new section:

19 **“§ 547. Toxic Exposure Review Commission**

20 “(a) *ESTABLISHMENT.*—The Secretary shall establish
21 an independent commission to be known as the ‘Toxic Ex-
22 posure Review Commission’ (in this section referred to as
23 the ‘Commission’).

24 “(b) *PURPOSE.*—The Commission shall—

1 “(1) advise the Secretary on questions relating to
2 exposure to toxic substances that require scientific re-
3 search; and

4 “(2) assist in the consideration of possible pre-
5 sumptions of service connection.

6 “(c) DUTIES.—The Commission shall carry out the fol-
7 lowing duties:

8 “(1) Collect any relevant information from the
9 Department of Defense and other sources to identify
10 possible toxic exposures related to service during ac-
11 tive duty, active duty for training, or inactive duty
12 training in order to determine the need for a com-
13 prehensive review under an agreement under section
14 202 of the Toxic Exposure in the American Military
15 Act of 2020. Relevant information may be collected
16 from the following:

17 “(A) Any Federal agency, as the Commis-
18 sion considers necessary to carry out this section.

19 Upon request of the Chair, the head of such agen-
20 cy shall furnish such information to the Commis-
21 sion, unless such information is classified.

22 “(B) Public meetings or hearings, which
23 may be held to take such testimony and receive
24 such evidence as the Commission considers advis-
25 able to carry out the duties of the Commission.

1 “(2) *Recommend to the Secretary, by majority*
2 *vote, whether a comprehensive scientific review should*
3 *be conducted by the National Academies of Sciences,*
4 *Engineering, and Medicine under an agreement*
5 *under section 202 of the Toxic Exposure in the Amer-*
6 *ican Military Act of 2020.*

7 “(3) *Recommend to the Secretary, by majority*
8 *vote, whether new, independent studies regarding the*
9 *health outcomes of exposure to toxic substances, or*
10 *any other new, independent studies that the Commis-*
11 *sion deems necessary and appropriate, should be con-*
12 *ducted.*

13 “(4) *Annually report to Congress on progress re-*
14 *garding the duties set forth in paragraphs (1) through*
15 *(3), any recommendations made to the Secretary, and*
16 *any responses of the Secretary to such recommenda-*
17 *tions.*

18 “(d) *MEMBERSHIP.*—(1)(A) *The Commission shall be*
19 *composed of 9 members, appointed as follows:*

20 “(i) *Two members appointed by the Speaker of*
21 *the House of Representatives.*

22 “(ii) *Two members appointed by the minority*
23 *leader of the House of Representatives.*

24 “(iii) *Two members appointed by the majority*
25 *leader of the Senate.*

1 “(iv) Two members appointed by the minority
2 leader of the Senate.

3 “(v) One member appointed by the Secretary.

4 “(B) The initial members of the Commission shall be
5 appointed under subparagraph (A) not later than 180 days
6 after the date of the enactment of the Toxic Exposure in
7 the American Military Act of 2020.

8 “(2) In appointing individuals under paragraph
9 (1)(A), the Speaker of the House of Representatives, the mi-
10 nority leader of the House of Representatives, the majority
11 leader of the Senate, the minority leader of the Senate, and
12 the Secretary shall ensure that at least five members of the
13 Commission are scientists or health care professionals—

14 “(A) of whom—

15 “(i) one has a background in the field of
16 respiratory medicine;

17 “(ii) one has a background in the field of
18 endocrinology and metabolic medicine;

19 “(iii) one has a background in hematology;

20 “(iv) one has a background in oncology;

21 and

22 “(v) one has a background in occupational
23 and environmental health; and

24 “(B) who are not officials or employees of the
25 Federal Government.

1 “(3) In appointing individuals under paragraph
2 (1)(A), the Speaker of the House of Representatives, the mi-
3 nority leader of the House of Representatives, the majority
4 leader of the Senate, the minority leader of the Senate, and
5 the Secretary shall ensure that at least two members of the
6 Commission represent an organization recognized by the
7 Secretary for the representation of veterans under section
8 5902 of this title.

9 “(4) In appointing individuals under paragraph
10 (1)(A), the Speaker of the House of Representatives, the mi-
11 nority leader of the House of Representatives, the majority
12 leader of the Senate, the minority leader of the Senate, and
13 the Secretary shall give consideration to including in the
14 Commission at least one member who works with survivors
15 of illnesses related to exposure to toxic substances and has
16 a background in the field of study of exposure to toxic sub-
17 stances.

18 “(e) MEETINGS.—(1) The Commission shall meet not
19 less frequently than twice each year.

20 “(2)(A) Each meeting of the Commission shall be open
21 to the public.

22 “(B) All the proceedings, information, and delibera-
23 tions of the Commission shall be available for review by
24 the public.

1 “(C) *Meetings of the Commission may be carried out*
2 *through the use of telephonic or other appropriate tele-*
3 *communication technology if the Commission determines*
4 *that such technology will allow the members to commu-*
5 *nicate simultaneously.*

6 “(f) *CHAIR AND VICE CHAIR.—At the initial meeting*
7 *of the Commission under subsection (e), the Commission*
8 *shall select a Chair and Vice Chair from among the mem-*
9 *bers of the Commission by a majority vote of the members*
10 *of the Commission.*

11 “(g) *PERIOD OF APPOINTMENT; VACANCIES.—(1) A*
12 *member of the Commission shall be appointed for a term*
13 *that may not exceed four years.*

14 “(2) *The Secretary shall ensure that terms of members*
15 *of the Commission are staggered so that no such terms end*
16 *on the same date.*

17 “(3) *A vacancy in the Commission shall be filled in*
18 *the same manner as the original appointment, but the indi-*
19 *vidual appointed to fill the vacancy shall serve only for the*
20 *unexpired portion of the term for which the individual’s*
21 *predecessor was appointed.*

22 “(4) *In appointing the initial members of the Commis-*
23 *sion, each official who is authorized to appoint two mem-*
24 *bers of the Commission shall appoint—*

1 “(A) one member whose term expires after two
2 years; and

3 “(B) one member whose term expires after four
4 years.

5 “(h) PAY.—(1) Members of the Commission shall serve
6 without pay.

7 “(2) Each member of the Commission who is an officer
8 or employee of the United States shall serve without com-
9 pensation in addition to that received for service as an offi-
10 cer or employee of the United States.

11 “(3) Members shall receive travel expenses, including
12 per diem in lieu of subsistence, in accordance with sections
13 5702 and 5703 of title 5.

14 “(i) DIRECTOR OF STAFF.—(1) The Commission shall
15 appoint a Director who—

16 “(A) has not served as an employee of the De-
17 partment during the one-year period preceding the
18 date of such appointment; and

19 “(B) is not otherwise barred or prohibited from
20 serving as Director under Federal ethics laws and
21 regulations, by reason of post-employment conflict of
22 interest.

23 “(2) The Director shall be paid at the rate of basic
24 pay payable for level IV of the Executive Schedule under
25 section 5315 of title 5.

1 “(j) *STAFF.*—(1) *Subject to paragraphs (2) and (3),*
2 *the Director, with the approval of the Commission, may ap-*
3 *point and fix the pay of additional personnel.*

4 “(2) *The Director may make such appointments with-*
5 *out regard to the provisions of title 5 governing appoint-*
6 *ments in the competitive service, and any personnel so ap-*
7 *pointed may be paid without regard to the provisions of*
8 *chapter 51 and subchapter III of chapter 53 of that title*
9 *relating to classification and General Schedule pay rates,*
10 *except that an individual so appointed may not receive pay*
11 *in excess of the annual rate of basic pay payable for GS-*
12 *15 of the General Schedule.*

13 “(3)(A) *Not more than two-thirds of the personnel em-*
14 *ployed by or detailed to the Commission may be on detail*
15 *from the Department.*

16 “(B) *Not more than half of the professional analysts*
17 *of the Commission staff may be persons detailed from the*
18 *Department to the Commission.*

19 “(4) *Subject to paragraph (3), the head of any Federal*
20 *agency, upon the request of the Director, may detail any*
21 *of the personnel of that agency to the Commission to assist*
22 *the Commission in carrying out its duties under this sec-*
23 *tion.*

24 “(5) *The Commission may secure directly from any*
25 *Federal agency such information as the Commission con-*

1 siders necessary to carry out this section. Upon request of
2 the Chair, the head of such agency shall furnish such infor-
3 mation to the Commission, unless such information is clas-
4 sified.

5 “(k) OTHER AUTHORITY.—(1) The Commission may
6 procure by contract, to the extent funds are available, the
7 temporary or intermittent services of experts or consultants
8 pursuant to section 3109 of title 5.

9 “(2) To the extent funds are available, the Commission
10 may lease real property and acquire personal property ei-
11 ther of its own accord or in consultation with the General
12 Services Administration.

13 “(l) COMMUNICATIONS.—(1)(A) Except as provided in
14 subparagraph (B), no person may restrict an employee of
15 the Department in communicating with the Commission.

16 “(B) Subparagraph (A) does not apply to a commu-
17 nication that is unlawful.

18 “(2) All ex parte communications with the Commis-
19 sion shall be made part of the public record.

20 “(m) REFERENCE TO NATIONAL ACADEMIES OF
21 SCIENCES, ENGINEERING, AND MEDICINE.—In the case that
22 the Secretary enters into an agreement with another organi-
23 zation as described in section 202(h)(1) of the Toxic Expo-
24 sure in the American Military Act of 2020, any reference
25 in this section to the National Academies of Sciences, Engi-

1 *neering, and Medicine shall be treated as a reference to the*
2 *other organization.*

3 “(n) *TOXIC SUBSTANCE DEFINED.*—*In this section,*
4 *the term ‘toxic substance’ has the meaning given that term*
5 *in subparagraph (G)(iv) of section 1710(e)(1) of this title.”.*

6 (b) *CLERICAL AMENDMENT.*—*The table of sections at*
7 *the beginning of chapter 5 of such title is amended by add-*
8 *ing at the end the following new item:*

“547. *Toxic Exposure Review Commission.*”.

9 **SEC. 202. AGREEMENT WITH NATIONAL ACADEMIES OF**
10 **SCIENCES, ENGINEERING, AND MEDICINE**
11 **CONCERNING THE EXPOSURE OF HUMANS TO**
12 **TOXIC SUBSTANCES.**

13 (a) *PURPOSE.*—*The purpose of this section is to pro-*
14 *vide for the National Academies of Sciences, Engineering,*
15 *and Medicine (in this section referred to as the “Acad-*
16 *emies”), an independent nonprofit scientific organization*
17 *with appropriate expertise that is not part of the Federal*
18 *Government, to review and evaluate the available scientific*
19 *evidence regarding associations between diseases and expo-*
20 *sure to toxic substances.*

21 (b) *AGREEMENT.*—

22 (1) *IN GENERAL.*—*The Secretary of Veterans Af-*
23 *fairs shall seek to enter into a five-year agreement*
24 *with the Academies to perform the services covered by*
25 *this section.*

7 (c) *REVIEW OF SCIENTIFIC EVIDENCE.*—Under an
8 agreement between the Secretary and the Academies under
9 this section, the Academies shall review and summarize the
10 scientific evidence, and assess the strength thereof, con-
11 cerning the association between exposure to toxic substances
12 during active military, naval, or air service and each dis-
13 ease suspected to be associated with such exposure in the
14 human population.

15 (d) SCIENTIFIC DETERMINATIONS CONCERNING DIS-
16 EASES.—For each disease reviewed under subsection (c), the
17 Academies shall determine, to the extent that available sci-
18 entific data permit meaningful determinations—

4 (3) whether there exists a plausible biological
5 mechanism or other evidence of a causal relationship
6 between the exposure and the occurrence of the disease.

7 (e) COOPERATION OF FEDERAL AGENCIES.—

16 (f) RECOMMENDATIONS FOR ADDITIONAL SCIENTIFIC
17 STUDIES.—

(B) the value and relevance of the information that could result from additional studies; and

(C) the cost and feasibility of carrying out such additional studies.

11 (g) REPORTS.—

12 (1) *INITIAL REPORT.*—

(B) ELEMENTS.—The report submitted under subparagraph (A) shall include the following:

1 (i) The determinations described in
2 subsection (d).

3 (ii) A full explanation of the scientific
4 evidence and reasoning that led to such de-
5 terminations.

17 (h) ALTERNATIVE CONTRACT SCIENTIFIC ORGANIZA-
18 TION—

17 (a) *IN GENERAL.*—The Secretary of Veterans Affairs
18 shall compile and analyze, on a continuous basis, all clin-
19 ical data that—

24 (2) is likely to be scientifically useful in deter-
25 mining the association, if any, between the medical

1 *condition of a veteran and exposure to a toxic sub-*
2 *stance.*

3 *(b) CONSENT OF PATIENTS.—Compilation and anal-*
4 *ysis by the Secretary of clinical data of a veteran under*
5 *subsection (a) shall be conducted, and such data shall be*
6 *used, consistent with the informed consent of the veteran*
7 *and in compliance with all applicable Federal law*

8 *(c) ANNUAL REPORT.—Not later than one year after*
9 *the date of the enactment of this Act, and annually there-*
10 *after, the Secretary shall submit to the Committee on Vet-*
11 *erans' Affairs of the Senate, the Committee on Veterans' Af-*
12 *fairs of the House of Representatives, and the Toxic Expo-*
13 *sure Review Commission established by section 547 of title*
14 *38, United States Code, as added by section 201(a) of this*
15 *Act, a report containing—*

16 *(1) the data compiled under subsection (a);*

17 *(2) an analysis of such data;*

18 *(3) a description of the types and incidences of*
19 *medical conditions identified by the Department*
20 *under such subsection;*

21 *(4) the explanation of the Secretary for the inci-*
22 *dence of such medical conditions and other expla-*
23 *nations for the incidence of such conditions as the*
24 *Secretary considers reasonable; and*

7 **TITLE III—IMPROVEMENT OF RE-**
8 **SOURCES OF DEPARTMENT**
9 **OF VETERANS AFFAIRS RE-**
10 **GARDING EXPOSURES TO**
11 **TOXIC SUBSTANCES**

12 **SEC. 301. PUBLICATION OF LIST OF RESOURCES OF DE-**
13 **PARTMENT OF VETERANS AFFAIRS FOR VET-**
14 **ERANS EXPOSED TO TOXIC SUBSTANCES AND**
15 **OUTREACH PROGRAM FOR SUCH VETERANS**
16 **AND CAREGIVERS AND SURVIVORS OF SUCH**
17 **VETERANS.**

18 (a) *PUBLICATION OF LIST OF RESOURCES.—*

(B) veterans eligible for hospital care, medical services, and nursing home care under section 1710(a)(2)(F) of such title;

(2) *UPDATE.—The Secretary shall periodically update the list published under paragraph (1).*

19 (b) *OUTREACH.*—The Secretary shall develop, with
20 input from the community, an informative outreach pro-
21 gram for veterans on illnesses that may be related to expo-
22 sure to toxic substances, including outreach with respect to
23 benefits and support programs.

1 **SEC. 302. INCORPORATION OF TOXIC EXPOSURE QUESTION-**2 **NAIRE DURING PRIMARY CARE APPOINT-
3 MENTS.**

4 (a) *IN GENERAL.*—The Secretary of Veterans Affairs
5 shall incorporate a clinical questionnaire to help determine
6 potential exposure to toxic substances during active mili-
7 tary, naval, or air service as part of the initial screening
8 conducted for an appointment of a veteran with a primary
9 care provider of the Department of Veterans Affairs to im-
10 prove understanding by the Department of exposure of vet-
11 erans to toxic substances while serving in the Armed Forces.

12 (b) *DETERMINATION OF QUESTIONS.*—The questions
13 included in the questionnaire required under subsection (a)
14 shall be determined by the Secretary with input from med-
15 ical professionals.

16 **SEC. 303. PORTAL FOR ACCESS BY VETERANS TO INDI-
17 VIDUAL LONGITUDINAL EXPOSURE RECORD.**

18 (a) *IN GENERAL.*—The Secretary of Veterans Affairs
19 shall establish a portal through which a veteran may access
20 documents and information with respect to the veteran con-
21 tained in the Individual Longitudinal Exposure Record of
22 the Department of Veterans Affairs.

23 (b) *ELEMENTS OF PORTAL.*—The portal established
24 under subsection (a) shall—

25 (1) present documents and information with re-
26 spect to a veteran contained in the Individual Longi-

1 *tudinal Exposure Record of the veteran in a print-*
2 *able, read-only format; and*

3 *(2) be hosted on an internet website of the De-*
4 *partment that is commonly used by veterans.*

5 **SEC. 304. TRAINING OF HEALTH CARE PERSONNEL OF DE-**
6 **PARTMENT OF VETERANS AFFAIRS ON ILL-**
7 **NESSES RELATED TO EXPOSURE TO TOXIC**
8 **SUBSTANCES.**

9 *(a) IN GENERAL.—The Secretary of Veterans Affairs*
10 *shall ensure that health care personnel of the Department*
11 *of Veterans Affairs are appropriately trained to identify,*
12 *treat, and assess the impact of illnesses related to exposure*
13 *to toxic substances.*

14 *(b) ELEMENTS OF TRAINING.—The training required*
15 *under subsection (a) shall—*

16 *(1) provide health care personnel of the Depart-*
17 *ment with specific education with respect to illnesses*
18 *related to exposure to toxic substances; and*

19 *(2) inform such personnel of how to probe for ad-*
20 *ditional information from veterans regarding expo-*
21 *sures to different toxicants.*

22 *(c) TOXICANT DEFINED.—In this section, the term*
23 *“toxicant” has the meaning given that term in subpara-*
24 *graph (G)(iv) of section 1710(e)(1) of title 38, United States*
25 *Code, as added by section 101(a).*

Calendar No. 602

116TH CONGRESS
2D SESSION
S. 4393

A BILL

To improve the provision of health care and other benefits from the Department of Veterans Affairs for veterans who were exposed to toxic substances, and for other purposes.

DECEMBER 8, 2020

Reported with an amendment