

**Calendar No. 377**111<sup>TH</sup> CONGRESS  
2<sup>D</sup> SESSION**S. 3378****[Report No. 111-189]**

To authorize health care for certain individuals exposed to environmental hazards at Camp Lejeune and the Atsugi Naval Air Facility, to establish an advisory board to examine exposures to environmental hazards during military service, and for other purposes.

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**IN THE SENATE OF THE UNITED STATES**

MAY 17, 2010

Mr. AKAKA, from the Committee on Veterans' Affairs, reported the following original bill; which was read twice and placed on the calendar

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**A BILL**

To authorize health care for certain individuals exposed to environmental hazards at Camp Lejeune and the Atsugi Naval Air Facility, to establish an advisory board to examine exposures to environmental hazards during military service, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Examination of Expo-  
5 sures to Environmental Hazards During Military Service

1 and Health Care for Camp Lejeune and Atsugi Naval Air  
2 Facility Veterans and their Families Act of 2010”.

3 **SEC. 2. DEFINITIONS.**

4 (a) APPROPRIATE CONGRESSIONAL COMMITTEES.—

5 The term “appropriate congressional committees”  
6 means—

7 (1) the Committee on Armed Services and the  
8 Committee on Veterans’ Affairs of the Senate; and

9 (2) the Committee on Armed Services and the  
10 Committee on Veterans’ Affairs of the House of  
11 Representatives.

12 (b) MILITARY EXPOSURE.—

13 (1) IN GENERAL.—In this Act, the term “mili-  
14 tary exposure” means the exposure of an individual  
15 to an environmental hazard on a military installa-  
16 tion.

17 (2) EXCEPTION.—Such term does not include  
18 the exposure of an individual to an environmental  
19 hazard at a military installation during a period in  
20 which imminent danger pay is authorized to be paid  
21 the individual under section 310 of title 37, United  
22 States Code.

23 (c) MILITARY EXPOSURE CLAIM.—In this Act, the  
24 term “military exposure claim” means a formal claim of

1 a military exposure submitted by or on behalf of an indi-  
2 vidual.

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

4 (a) ESTABLISHMENT.—The Secretary of Defense and  
5 the Secretary of Veterans Affairs shall jointly establish an  
6 advisory board (to be known as the “Advisory Board on  
7 Military Exposures”) to provide expert advice to the De-  
8 partment of Defense and the Department of Veterans Af-  
9 fairs on matters relating to exposures of current and  
10 former members of the Armed Forces and their depend-  
11 ants to environmental hazards on military installations.

12 (b) COMPOSITION.—The Advisory Board shall consist  
13 of 7 members, appointed by the President, in consultation  
14 with the Secretary of Defense and the Secretary of Vet-  
15 erans Affairs, of whom—

16 (1) two members shall be members of military  
17 service organizations or organizations recognized by  
18 the Secretary of Veterans Affairs under section 5902  
19 of title 38, United States Code (commonly referred  
20 to as “veterans service organizations”);

21 (2) two members shall be officials of appro-  
22 priate Federal agencies, other than the Department  
23 of Defense or the Department of Veterans Affairs,  
24 with experience in environmental exposure or envi-

1       ronmental exposure assessments, health monitoring,  
2       or other relevant fields; and

3               (3) three members shall be scientists who—

4                       (A) have backgrounds in environmental ex-  
5                       posure or environmental exposure assessments,  
6                       health monitoring, or other relevant fields; and

7                       (B) are not officials or employees of the  
8                       Federal Government.

9       (c) APPOINTMENTS.—

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

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

16               (3) VACANCIES.—A vacancy in the Advisory  
17       Board shall be filled in the manner in which the  
18       original appointment was made.

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

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

24       (f) MEETINGS.—The Board shall meet at the call of  
25       the Chairperson.

1 (g) COMPENSATION.—

2 (1) OFFICERS OF THE FEDERAL GOVERN-  
3 MENT.—

4 (A) IN GENERAL.—A member of the Board  
5 who is an employee of the Federal Government  
6 may not receive additional pay, allowances, or  
7 benefits by reason of the member's service on  
8 the Board.

9 (B) TRAVEL EXPENSES.—Each such mem-  
10 ber of the Board shall receive travel expenses,  
11 including per diem in lieu of subsistence, in ac-  
12 cordance with applicable provisions under sub-  
13 chapter I of chapter 57 of title 5, United States  
14 Code.

15 (2) OTHER MEMBERS.—

16 (A) IN GENERAL.—Except as provided in  
17 subparagraph (B), a member of the Advisory  
18 Board who is not an employee of the Federal  
19 Government—

20 (i) shall be paid compensation out of  
21 funds made available for the purposes of  
22 this title at the daily equivalent of the  
23 highest rate payable under section 5332 of  
24 title 5, United States Code, for each day  
25 (including travel time) during which the

1 member is engaged in the actual perform-  
2 ance of duties as a member of the Advisory  
3 Board; and

4 (ii) while away from the member's  
5 home or regular place of business on nec-  
6 essary travel in the actual performance of  
7 duties as a member of the Advisory Board,  
8 shall be paid per diem, travel, and trans-  
9 portation expenses in the same manner as  
10 is provided under subchapter I of chapter  
11 57 of title 5, United States Code.

12 (B) LIMITATION.—A member of the Advi-  
13 sory Board may not be paid compensation  
14 under subparagraph (A)(ii) for more than 120  
15 days in any calendar year.

16 (h) STAFF.—

17 (1) IN GENERAL.—The Chairperson of the Ad-  
18 visory Board may, without regard to the civil service  
19 laws and regulations, appoint an executive director  
20 of the Advisory Board, who shall be a civilian em-  
21 ployee of the Department of Defense, and such other  
22 personnel as may be necessary to enable the Advi-  
23 sory Board to perform its duties. The appointment  
24 of an executive director shall be subject to approval  
25 by the Advisory Board.

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

11      (i) DETAIL OF GOVERNMENT EMPLOYEES.—Upon  
12      request of the Chairperson of the Advisory Board, the  
13      head of any Federal department or agency may detail, on  
14      a nonreimbursable basis, any personnel of that depart-  
15      ment or agency to the Advisory Board to assist it in car-  
16      rying out its duties.

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

18      (a) IN GENERAL.—The purpose of the Advisory  
19      Board is to consider and study cases of exposure of cur-  
20      rent and former members of the Armed forces and their  
21      dependants to potential environmental hazards at military  
22      installations. The Advisory Board shall evaluate military  
23      exposure claims that are submitted to the Advisory Board  
24      by members of the Armed Forces, veterans, dependants  
25      of members of the Armed Forces and veterans, veterans

1 advocacy groups, and officials of the Department of De-  
2 fense and the Department of Veterans Affairs with re-  
3 sponsibility or experience monitoring the health of current  
4 and former members of the Armed Forces.

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

9 (1) If the Advisory Board determines that fur-  
10 ther consideration of the military exposure claim is  
11 necessary to adequately assess the extent of expo-  
12 sure, the Advisory Board shall convene a science re-  
13 view panel under subsection (c) to make such assess-  
14 ment and report its findings to the Advisory Board.

15 (2) If the Advisory Board determines that the  
16 extent of exposure is insufficient to warrant further  
17 consideration of the claim, the Advisory Board shall  
18 make a recommendation of such finding to the Sec-  
19 retary of Defense and the Secretary of Veterans Af-  
20 fairs.

21 (3) If the Advisory Board determines that dur-  
22 ing the time period covered by such claim, members  
23 of the Armed Forces and their dependants were ex-  
24 posed to sufficient amounts of environmental haz-  
25 ards to warrant health care or compensation, the



1       Advisory Board shall submit to the Secretary of De-  
2       fense and the Secretary of Veterans Affairs a report  
3       that includes the following:

4               (A) Recommendations that—

5                       (i) such members should receive—

6                               (I) health care benefits through  
7                               the Department of Defense specifi-  
8                               cally designed to address such expo-  
9                               sure, as determined by the Secretary  
10                              of Defense; or

11                             (II) veterans health care or com-  
12                             pensation specifically designed to ad-  
13                             dress such exposure; and

14                       (ii) dependents of such members  
15                       should receive health care benefits through  
16                       the Department of Defense specifically de-  
17                       signed to address such exposure, as deter-  
18                       mined by the Secretary of Defense, or fi-  
19                       nancial compensation, or both.

20               (B) Information on cost and attributable  
21               exposure, as defined in regulations prescribed  
22               pursuant to this Act.

23       (c) SCIENCE ADVISORY PANELS.—

24               (1) ESTABLISHMENT.—The Advisory Board  
25               may convene a science advisory panel to assist in the

1 consideration of a military exposure claim under this  
2 section.

3 (2) COMPOSITION.—A science advisory panel  
4 convened under this subsection shall consist of 7 sci-  
5 entists who—

6 (A) have backgrounds in environmental ex-  
7 posure or environmental exposure assessments,  
8 health monitoring, or other relevant fields; and

9 (B) are not officials or employees of the  
10 Federal Government.

11 (3) CHAIRPERSON.—The Chairperson of the  
12 Advisory Board shall select from among the mem-  
13 bership of a science advisory panel an individual to  
14 serve as Chairperson of the panel. The individual so  
15 selected shall serve a 1-year term as Chairperson of  
16 the panel.

17 (4) CONSIDERATION OF MILITARY EXPOSURE  
18 CLAIMS.—Not later than 180 days after requested  
19 by the Advisory Board to review a military exposure  
20 claim, a science advisory panel shall submit a report  
21 to the Advisory Board with one of the following rec-  
22 ommendations:

23 (A) A recommendation that there is insuf-  
24 ficient exposure to warrant further consider-  
25 ation of the claim.

1           (B) A recommendation that further study  
2           of the claim is necessary, to be carried out by,  
3           or under the direction of, the science advisory  
4           panel in coordination with the Advisory Board.

5           (C) A recommendation that, during the  
6           time period covered by such claim, members of  
7           the Armed Forces and their dependants were  
8           exposed to a sufficient risk of exposure to envi-  
9           ronmental hazards to warrant compensation or  
10          health care.

11          (d) SUBPOENA AUTHORITY.—The Advisory Board  
12          and each science advisory panel convened by the Advisory  
13          Board under subsection (c) are authorized to require by  
14          subpoena the attendance and testimony of witnesses nec-  
15          essary to consider military exposure cases under this sec-  
16          tion.

17          (e) COOPERATION OF FEDERAL AGENCIES.—The  
18          head of each relevant Federal agency, including the Ad-  
19          ministrators of the Environmental Protection Agency, shall  
20          cooperate fully with the Advisory Board and each science  
21          advisory panel convened by the Advisory Board under sub-  
22          section (c) for purposes of considering military exposure  
23          cases under this section.

24          (f) INITIAL CASES.—

1           (1) IN GENERAL.—The Advisory Board shall  
2           consider military exposure claims related to Camp  
3           Lejeune, North Carolina, and Atsugi Naval Air Fa-  
4           cility, Japan, as the first two cases considered under  
5           this section.

6           (2) RULE OF CONSTRUCTION.—Nothing in this  
7           section shall be construed as requiring or author-  
8           izing the removal of any individuals from the lists  
9           required under sections 6 and 7.

10          (g) PERMANENT ADVISORY COMMITTEE.—Section 14  
11         of the Federal Advisory Committee Act (5 U.S.C. App.)  
12         shall not apply to the Advisory Board.

13         **SEC. 5. AUTHORITY TO PROVIDE CERTAIN HEALTH CARE**  
14                         **BENEFITS TO INDIVIDUALS SUBJECTED TO**  
15                         **MILITARY EXPOSURES.**

16         The Secretary of Defense is authorized to provide to  
17         current and former members of the Armed Forces and  
18         their dependants who were exposed to environmental haz-  
19         ards at military installations such health care benefits as  
20         may be recommended by the Advisory Board on Military  
21         Exposures under this Act.

22         **SEC. 6. HEALTH CARE SERVICES FOR CERTAIN INDIVID-**  
23                         **UALS AT CAMP LEJEUNE, NORTH CAROLINA.**

24         (a) IN GENERAL.—Not later than 90 days after the  
25         date of the enactment of this Act, the Secretary of De-

1 fense, in coordination with the Secretary of Veterans Af-  
2 fairs and after consultation with the Agency for Toxic  
3 Substances and Disease Registry, shall compile a list of  
4 individuals exposed to environmental hazards at Camp  
5 Lejeune, North Carolina, during the period, as determined  
6 by the Secretaries, in which the water at Camp Lejeune  
7 was contaminated with volatile organic compounds, includ-  
8 ing known and probable human carcinogens. The list may  
9 include individuals who were exposed to such hazards as  
10 fetuses in utero.

11 (b) ELIGIBILITY FOR HEALTH CARE.—Individuals  
12 included on the list compiled under subsection (a) shall  
13 be immediately eligible for health care as follows:

14 (1) Dependents shall be eligible for health care  
15 benefits through the Department of Defense, as de-  
16 termined by the Secretary of Defense, for any condi-  
17 tion, or any disability that is associated with such  
18 condition, that is associated with exposure to the  
19 contaminants in the water at Camp Lejeune.

20 (2) Current and former members of the Armed  
21 Forces shall be eligible to receive one of the fol-  
22 lowing:

23 (A) Health care benefits through the De-  
24 partment of Defense specifically designed to ad-

1           dress such exposure, as determined by the Sec-  
2           retary of Defense.

3                   (B) Health care benefits through the De-  
4           partment of Veterans Affairs specifically de-  
5           signed to address such exposure.

6           (c) REPORT.—

7                   (1) IN GENERAL.—Not later than 30 days after  
8           compiling the list required under subsection (a), the  
9           Secretary of Defense, in coordination with the Sec-  
10          retary of Veterans Affairs, shall submit to the ap-  
11          propriate congressional committees a report on the  
12          compilation of such list.

13                   (2) CONTENT.—The report required under  
14          paragraph (1) shall include—

15                           (A) the evidence considered in selecting the  
16           covered period of water contamination at Camp  
17           Lejeune; and

18                           (B) the criteria used to determine whether  
19           an individual was exposed to a contaminant  
20           during the covered period and the rationale for  
21           using those criteria.

22           (d) SUNSET.—The Secretary of Defense, in coordina-  
23          tion with the Secretary of Veterans Affairs, may expand  
24          the list compiled under subsection (a), but may not add

1 any individuals on or after the date that is 5 years after  
2 the date of the enactment of this Act.

3 **SEC. 7. HEALTH CARE SERVICES FOR CERTAIN INDIVID-**  
4 **UALS AT ATSUGI NAVAL AIR FACILITY,**  
5 **JAPAN.**

6 (a) IN GENERAL.—Not later than 90 days after the  
7 date of the enactment of this Act, the Secretary of De-  
8 fense, in coordination with the Secretary of Veterans Af-  
9 fairs, shall compile a list of individuals exposed to environ-  
10 mental hazards at Atsugi Naval Air Facility, Japan, dur-  
11 ing the period, as determined by the Secretaries, in which  
12 the air at Atsugi Naval Air Facility was contaminated due  
13 to an incinerator. The list may include individuals who  
14 were exposed to such hazards as fetuses in utero.

15 (b) ELIGIBILITY FOR HEALTH CARE.—Individuals  
16 included on the list compiled under subsection (a) shall  
17 be immediately eligible for health care as follows:

18 (1) Dependents shall be eligible for health care  
19 benefits through the Department of Defense, as de-  
20 termined by the Secretary of Defense, for any condi-  
21 tion, or any disability that is associated with such  
22 condition, that is associated with exposure to the  
23 contaminants in the air from an incinerator at  
24 Atsugi Naval Air Facility.

1           (2) Current and former members of the Armed  
2 Forces shall be eligible to receive one of the fol-  
3 lowing:

4           (A) Health care benefits through the De-  
5 partment of Defense specifically designed to ad-  
6 dress such exposure, as determined by the Sec-  
7 retary of Defense.

8           (B) Health care benefits through the De-  
9 partment of Veterans Affairs specifically de-  
10 signed to address such exposure.

11 (c) REPORT.—

12           (1) IN GENERAL.—Not later than 30 days after  
13 compiling the list required under subsection (a), the  
14 Secretary of Defense, in coordination with the Sec-  
15 retary of Veterans Affairs, shall submit to the ap-  
16 propriate congressional committees a report on the  
17 compilation of such list.

18           (2) CONTENT.—The report required under  
19 paragraph (1) shall include—

20           (A) the evidence considered in selecting the  
21 covered period of air contamination at Atsugi  
22 Naval Air Facility; and

23           (B) the criteria used to determine whether  
24 an individual was exposed to a contaminant



1           during the covered period and the rationale for  
2           using those criteria.

3           (d) SUNSET.—The Secretary of Defense, in coordina-  
4           tion with the Secretary of Veterans Affairs, may modify  
5           or expand the list compiled under subsection (a), but may  
6           not add any individuals on or after the date that is 5 years  
7           after the date of the enactment of this Act.

8   **SEC. 8. ANNUAL REPORT.**

9           (a) IN GENERAL.—Not later than one year after the  
10          date of the enactment of this Act, and annually thereafter,  
11          the Secretary of Defense, in consultation with the Sec-  
12          retary of Veterans Affairs, shall submit to the appropriate  
13          congressional committees a report on health care and  
14          other benefits provided under this Act.

15          (b) CONTENT.—The report required under subsection  
16          (a) shall include the following:

17               (1) A description of the classes of individuals  
18               who have received health care and other benefits  
19               under this Act during the reporting period.

20               (2) A description of the health care benefits  
21               that have been provided to such individuals.

22               (3) Recommendations for any additional legisla-  
23               tion necessary to implement this Act.

1 **SEC. 9. REGULATIONS.**

2       The Secretary of Defense and the Secretary of Vet-  
3 erans Affairs shall jointly prescribe regulations to carry  
4 out the provisions of this Act, including guidelines regard-  
5 ing health conditions and symptoms that may be attrib-  
6 uted to military exposures.

7 **SEC. 10. AUTHORIZATION OF APPROPRIATIONS.**

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



Calendar No. 377

11<sup>TH</sup> CONGRESS  
2<sup>D</sup> SESSION

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## **A BILL**

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Read twice and placed on the calendar