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S. 2178

To provide a program of compensation and health research for illnesses arising from service in the Armed Forces during the Persian Gulf War.

IN THE SENATE OF THE UNITED STATES

JUNE 10 (legislative day, JUNE 7), 1994

Mr. DASCHLE (for himself and Mr. AKAKA) introduced the following bill; which was read twice and referred to the Committee on Veterans' Affairs

A BILL

To provide a program of compensation and health research for illnesses arising from service in the Armed Forces during the Persian Gulf War.

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 “Persian Gulf War Vet-
5 erans’ Compensation Act of 1994”.

6 **SEC. 2. CONGRESSIONAL FINDINGS.**

7 The Congress makes the following findings:

8 (1) The United States bears responsibility for
9 the care and treatment of illnesses and disabilities
10 connected with service in the Armed Forces. When

1 the etiology of a specific condition occurring in vet-
2 erans is unknown, it is the Government's responsibil-
3 ity to give veterans the benefit of the doubt and to
4 provide appropriate treatment and compensation
5 until the scientific evidence warrants otherwise.

6 (2) During the Persian Gulf War, members of
7 the Armed Forces (A) were exposed to numerous po-
8 tentially toxic substances (including fumes and
9 smoke from petrochemicals and depleted uranium),
10 to infectious agents, to chemoprophylactic agents,
11 and to indigenous diseases, (B) received multiple im-
12 munizations and (C) may have been exposed to var-
13 ious chemical and biological warfare agents. Threats
14 of enemy use of chemical and biological weapons
15 heightened the psychological stress otherwise associ-
16 ated with the military operation.

17 (3) Significant numbers of veterans of the Per-
18 sian Gulf War are suffering from illnesses, or are ex-
19 hibiting symptoms of illnesses, that cannot (as of the
20 enactment of this Act) be diagnosed or clearly de-
21 fined. As a result, many of these conditions or ill-
22 nesses are not considered to be service connected for
23 purposes of benefits administered by the Secretary
24 of Veterans Affairs.

1 (4) The Technology Assessment Workshop on
2 the Persian Gulf Experience and Health conducted
3 by the National Institutes of Health found that the
4 complex biological, chemical, physical, and psycho-
5 logical environment of the Southwest Asia theater of
6 operations produced complex adverse health effects
7 in Persian Gulf War veterans and that it appears as
8 if there is no single condition or illness among af-
9 fected Persian Gulf War veterans, but rather mul-
10 tiple illnesses with overlapping symptoms and
11 causes.

12 (5) That workshop concluded that the data con-
13 cerning the range and intensity of exposure to toxic
14 substances by military personnel in the Southwest
15 Asia theater of operations are very limited and that
16 such data were collected only after a considerable
17 delay.

18 (6) In response to concerns regarding the
19 health care needs of Persian Gulf War veterans, par-
20 ticularly those who suffer from undiagnosable condi-
21 tions or illnesses, the Congress, in Public Law 102-
22 585, directed the establishment of the Persian Gulf
23 War Veterans Health Registry, authorized health ex-
24 aminations for Persian Gulf War veterans, and pro-
25 vided for the National Academy of Sciences to con-

1 duct a comprehensive review and assessment of in-
2 formation regarding the health consequences of mili-
3 tary service in the theater of operations during the
4 Persian Gulf War and to develop recommendations
5 for research on such health consequences. In Public
6 Law 103–210, Congress authorized the Department
7 of Veterans Affairs to provide health care services on
8 a priority basis to Persian Gulf War veterans. In
9 Public Law 103–160, Congress provided funding for
10 the establishment of a specialized environmental
11 medical facility for the conduct of research into the
12 potential health effects of low-level chemical expo-
13 sure and for research on the potential health effects
14 of battlefield exposure to depleted uranium.

15 (7) The workshop referred to in paragraph (4)
16 noted that well-designed epidemiological studies have
17 not been conducted to link the conditions or illnesses
18 of the military personnel with exposures in the thea-
19 ter of operations during the Persian Gulf War and
20 found that the absence of such studies has hampered
21 efforts to provide treatment and compensation to
22 veterans of the Persian Gulf War. Accordingly, fur-
23 ther research and studies should be undertaken to
24 determine the underlying causes of the illnesses suf-
25 fered by Persian Gulf War veterans and, pending

1 the outcome of such research, veterans who are seri-
2 ously ill and whose illness may be related to their
3 military service should receive compensation benefits
4 to offset the impairment in earnings capacities they
5 may be experiencing.

6 **SEC. 3. PURPOSES.**

7 The purposes of this Act are—

8 (1) to require the Secretary of Veterans Affairs
9 to provide compensation to Persian Gulf War veter-
10 ans who have disabilities resulting from an illness or
11 illnesses that cannot (as of the enactment of this
12 Act) be diagnosed or defined and for which other
13 causes cannot (as of the enactment of this Act) be
14 identified until such time as scientific evidence dem-
15 onstrates that the illnesses are unrelated to military
16 service during the Persian Gulf War;

17 (2) to require the Secretary of Veterans Affairs
18 to develop case assessment protocols and case defini-
19 tions for such illnesses;

20 (3) to establish an outreach program to Persian
21 Gulf War veterans and their families to inform them
22 of ongoing research activities as well as the services
23 and benefits for which they are eligible; and

24 (4) to authorize further research activities, in-
25 cluding an epidemiological study, on the health risks

1 and effects of military service in the Southwest thea-
2 ter of operations during the Persian Gulf War.

3 **SEC. 4. DEVELOPMENT OF CASE ASSESSMENT PROTOCOLS**
4 **AND CASE DEFINITIONS.**

5 (a) UNIFORM CASE ASSESSMENT PROTOCOL.—(1)
6 The Secretary of Veterans Affairs shall develop and imple-
7 ment a uniform case assessment protocol that will ensure
8 thorough assessment, diagnosis, and treatment of all Per-
9 sian Gulf War veterans suffering from illnesses the origins
10 of which are (as of the enactment of this Act) unknown
11 and that may be attributable to service in the Southwest
12 Asia theater of operations during the Persian Gulf War.

13 (2) If such a uniform case assessment protocol is not
14 implemented before the end of the 120-day period begin-
15 ning on the date of the enactment of this Act, the Sec-
16 retary shall, before the end of such period, submit to the
17 Committees on Veterans' Affairs of the Senate and House
18 of Representatives a report as to why such a protocol has
19 not yet been developed.

20 (b) CASE DEFINITIONS.—(1) The Secretary shall de-
21 velop case definitions or diagnoses for illnesses, the origins
22 of which are (as of the enactment of this Act) unknown
23 and that may be associated with service in the Persian
24 Gulf War.

1 (2) If such case definitions and diagnoses are not de-
2 veloped before the end of the 120-day period beginning
3 on the date of the enactment of this Act, the Secretary
4 shall, before the end of such period, submit to the Commit-
5 tees on Veterans' Affairs of the Senate and House of Rep-
6 resentatives a report as to why such case definitions and
7 diagnoses have not yet been developed.

8 (c) CONSULTATION.—Subsections (a) and (b) shall be
9 carried out in consultation with the Secretary of Defense
10 and the Secretary of Health and Human Services.

11 **SEC. 5. OUTREACH TO PERSIAN GULF VETERANS.**

12 (a) IN GENERAL.—The Secretary of Veterans Affairs
13 shall implement a comprehensive outreach program to in-
14 form Persian Gulf War veterans and their families of the
15 medical care and other benefits that may be provided by
16 the Department of Veterans Affairs and the Department
17 of Defense arising from service in the Persian Gulf War.

18 (b) NEWSLETTER.—The outreach program shall in-
19 clude a newsletter which shall be updated and distributed
20 at least annually and shall be distributed to the veterans
21 listed on the Persian Gulf War Veterans Health Registry.
22 The newsletter shall include summaries of the status and
23 findings of Government sponsored research on illnesses of
24 Persian Gulf War veterans and their families as well as
25 on benefits available to such individuals through the De-

1 partment of Veterans Affairs. The newsletter shall be pre-
2 pared in consultation with veterans service organizations.

3 (c) TOLL-FREE NUMBER.—The outreach program
4 shall include establishment of a toll-free telephone number
5 to provide Persian Gulf War veterans and their families
6 information on the Persian Gulf War Veterans Health
7 Registry, health care and other benefits provided by the
8 Department of Veterans Affairs, and such other informa-
9 tion as the Secretary considers appropriate. Such toll-free
10 telephone number shall be established not later than 90
11 days after the date of the enactment of this Act.

12 **SEC. 6. COMPENSATION FOR DISABILITIES RESULTING**
13 **FROM ILLNESSES ASSOCIATED WITH SERV-**
14 **ICE DURING THE PERSIAN GULF WAR.**

15 (a) IN GENERAL.—

16 (1) Chapter 11 of title 38, United States Code,
17 is amended by adding at the end of subchapter I the
18 following new section:

19 **“§1117. Compensation for conditions or illnesses of**
20 **unknown origin associated with service**
21 **during the Persian Gulf War**

22 “(a) The Secretary shall pay compensation under this
23 subchapter to a Persian Gulf War veteran suffering from
24 a disability resulting from an undiagnosed illness, or com-
25 bination of illness, that becomes manifest to a degree of

1 10 percent or more within three years of separation from
2 active military, naval, or air service.

3 “(b)(1) The Secretary shall issue, within 90 days of
4 the date of the enactment of this section, preliminary reg-
5 ulations governing the award of such compensation.

6 “(2) The percentage of disability that equals 10 per-
7 cent shall be described as ‘mild impairment of social and
8 industrial adaptability’.

9 “(3) The percentage of disability that equals a total
10 or 100 percent rating shall be described as ‘demonstra-
11 tively unable to obtain or retain substantial gainful em-
12 ployment’.

13 “(4) In determining the rating schedule for such dis-
14 ability, the Secretary should examine analogous ratings.

15 “(5) In determining eligibility for compensation
16 under this section, the Secretary shall give due consider-
17 ation to ‘lay evidence’, including testimony provided by the
18 claimant, supporting witnesses, and independent medical
19 experts.

20 “(c) Not later than 60 days after the date on which
21 the Secretary issues any proposed regulations pursuant to
22 this section, the Secretary shall issue final regulations
23 under this section. Such regulations shall be effective on
24 the date of issuance.

1 “(d) A disability for which compensation under this
2 section is awarded shall be considered to be service con-
3 nected for purposes of all other laws of the United States.

4 “(e) Compensation may not be paid under this sec-
5 tion for a disability occurring in a veteran—

6 “(1) where there is a preponderance of evidence
7 that the disability was not incurred by the veteran
8 in the Southwest Asia theater of operations during
9 the Persian Gulf War; or

10 “(2) where there is a preponderance of evidence
11 to establish that an intercurrent injury or illness
12 which is a recognized cause of the disability was suf-
13 fered by the veteran between the date of the veter-
14 an’s most recent departure from the Southwest Asia
15 theater of operations while on active duty and the
16 onset of the disability.

17 “(f) For purposes of this section, the term ‘Persian
18 Gulf veteran’ means a veteran who served on active duty
19 in the Armed Forces in the Southwest Asia theater of op-
20 erations during the Persian Gulf War.

21 “(g) Payments shall be made under this section to
22 a veteran until such time as the scientific evidence dem-
23 onstrates that the illnesses for which compensation is
24 awarded under this section are not connected to service
25 in the Southwest Asia theater of operations during the

1 Persian Gulf War. The Secretary may cease payments
2 under this section only after providing a report describing
3 the Secretary's intentions, as well as the scientific basis
4 for ceasing such payments, at least 90 days before imple-
5 mentation of such action to the Committees on Veterans
6 Affairs of the Senate and House of Representatives.

7 “(h) Compensation awarded under this section shall
8 not preclude a veteran from receiving retroactive com-
9 pensation for a benefit claim that was filed before the date
10 of the enactment of this section if the veteran's illness or
11 illnesses are later found to be service connected.

12 “(i) The Secretary shall consider having all claims for
13 compensation under this section adjudicated on a priority
14 basis at a single Department facility in order to better
15 ensure the consistency of rating decisions.

16 “(j) The Secretary shall have all claims for service-
17 connected benefits connected to an undiagnosable illness
18 or illnesses in veterans of the Persian Gulf War that were
19 denied before the date of the enactment of this section
20 reopened and adjudicated as original claims. In such a
21 case, the date of claim shall be considered to be the date
22 on which the original claim was filed.”.

23 (2) The table of sections at the beginning of
24 such chapter is amended by inserting after the item
25 relating to section 1116 the following new item:

“1117. Presumption of service connection for illnesses associated with the Persian Gulf War.”.

1 (b) EFFECTIVE DATE.—Section 1117 of title 38,
2 United States Code, as added by subsection (a), shall take
3 effect on October 1, 1994.

4 **SEC. 7. RESULTS OF EXAMINATIONS AND TREATMENT OF**
5 **PERSIAN GULF WAR VETERANS WITH**
6 **UNDIAGNOSABLE ILLNESSES.**

7 (a) ACCESS TO DATA.—The Secretary of Veterans
8 Affairs shall enter into an agreement with the Secretary
9 of Defense to have access to all clinical data of the Depart-
10 ment of Defense on veterans of the Persian Gulf War who
11 remain on active duty.

12 (b) ONGOING COMPILATION OF DATA.—The Sec-
13 retary of Veterans Affairs shall compile and analyze, on
14 a continuing basis, all clinical data obtained on veterans
15 of the Persian Gulf War in connection with examinations
16 and treatment furnished by the Department of Veterans
17 Affairs and the Department of Defense that are likely (1)
18 to be scientifically useful in determining the association
19 between the undiagnosable illnesses of veterans and their
20 service in the Southwest Asia theater of operations during
21 the Persian Gulf War, and (2) to be useful in the develop-
22 ment of case assessment protocols or case definitions.

1 (c) ANNUAL REPORT.—The Secretary shall submit to
2 the Committees on Veterans' Affairs of the Senate and
3 House of Representatives an annual report containing—

4 (1) the information compiled in accordance with
5 subsection (b);

6 (2) the Secretary's analysis of such information;

7 (3) a discussion of the incidence of illnesses
8 identified or treated by the Department of Veterans
9 Affairs in the case of veterans referred to in sub-
10 section (b); and

11 (4) the Secretary's explanation for the incidence
12 of such illnesses and disabilities.

13 **SEC. 8. EPIDEMIOLOGICAL RESEARCH.**

14 (a) CONTRACT.—The Secretary of Veterans Affairs
15 shall enter into a contract for the conduct of an epidemio-
16 logical study designed to assess both the short- and long-
17 term health consequences of service in the Southwest Asia
18 theater of operations during the Persian Gulf War on vet-
19 erans of the Persian Gulf War and their immediate family
20 members.

21 (b) OVERSIGHT.—(1) The Secretary shall seek to
22 enter into an agreement with the National Academy of
23 Sciences for the Medical Follow-Up Agency (MFUA) of
24 the Institute of Medicine of the Academy for (A) the re-
25 view of proposals to conduct the research specified in sub-

1 section (a), (B) oversight of such research, and (C) review
2 of the research findings.

3 (2) If the Secretary is unable to enter into an agree-
4 ment under paragraph (1) with the entity specified in that
5 paragraph, the Secretary shall enter into an agreement de-
6 scribed in that paragraph with another appropriate sci-
7 entific organization which does not have a connection to
8 the Department of Veterans Affairs. In such a case, the
9 Secretary shall submit to the Committees on Veterans' Af-
10 fairs of the Senate and House of Representatives, at least
11 90 days before the date on which the agreement is entered
12 into, notice in writing identifying the organization with
13 which the Secretary intends to enter into the agreement.

14 (c) ACCESS TO DATA.—The Secretary shall enter into
15 agreements with the Secretary of Defense and the Sec-
16 retary of Health and Human Services to access and make
17 available to the contractor under subsection (a) all data
18 that the Secretary, in consultation with the National
19 Academy of Sciences and the contractor, considers rel-
20 evant to the study.

21 (d) STATUS REPORT.—Within 180 days after the
22 date of the enactment of this Act, the Secretary shall sub-
23 mit to the Committees on Veterans Affairs of the Senate
24 and House of Representatives a report on the status of
25 the contract specified in subsection (a).

1 (e) AUTHORIZATION.—There is authorized to be ap-
2 propriated to the Department \$7,500,000 for each of fis-
3 cal years 1995 through 2000 for the conduct of the re-
4 search specified in subsection (a). In addition to amounts
5 for such research appropriated pursuant to the preceding
6 sentence, the Secretary may provide funds for such re-
7 search from any funds appropriated for any fiscal year
8 after fiscal year 1994 for the purpose of research spon-
9 sored by the Department.

10 (f) ANNUAL REPORT.—For each year of the study,
11 the Secretary shall submit to the Committees on Veterans
12 Affairs of the Senate and House of Representatives a re-
13 port accompanying the budget for that year containing—

14 (1) the methodology and status of the study
15 specified in subsection (a); and

16 (2) any preliminary analyses of the information
17 compiled in accordance with subsection (a), includ-
18 ing that provided by the National Academy of
19 Sciences.

20 (g) FINAL REPORT.—At the conclusion of the study,
21 the Secretary shall submit to the Committees on Veterans
22 Affairs of the Senate and House of Representatives a re-
23 port accompanying the budget containing—

24 (1) the methodology of the study specified in
25 subsection (a);

1 (2) the analysis of the information compiled in
2 accordance with subsection (a), including that pro-
3 vided by the National Academy of Sciences;

4 (3) a discussion of incidence of illnesses ob-
5 served in veterans of the Persian Gulf War and their
6 families;

7 (4) the National Academy of Sciences conclu-
8 sions concerning the health consequences of service
9 in the Southwest Asia theater of operations during
10 the Persian Gulf War on veterans and their imme-
11 diate family members; and

12 (5) the Secretary's explanation for the incidence
13 of such illnesses and disabilities and recommenda-
14 tions for future action.

15 **SEC. 9. AUTHORIZATION FOR OTHER RESEARCH.**

16 There is authorized to be appropriated to the Depart-
17 ment of Veterans Affairs \$5,000,000 for each of fiscal
18 years 1995 through 1998 for the conduct of research
19 which the Secretary, in consultation with the Secretary of
20 Defense and the Secretary of Health and Human Services,
21 determines could advance understanding of health risks
22 and effects of service during the Persian Gulf War and
23 the means of treating those health effects.

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