

110TH CONGRESS
2D SESSION

H. R. 5954

To amend title 38, United States Code, to provide veterans for presumptions of service connection for purposes of benefits under laws administered by Secretary of Veterans Affairs for diseases associated with service in the Armed Forces and exposure to biological, chemical, or other toxic agents as part of Project 112, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MAY 1, 2008

Mr. THOMPSON of California (for himself and Mr. REHBERG) introduced the following bill; which was referred to the Committee on Veterans' Affairs, and in addition to the Committee on Armed Services, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To amend title 38, United States Code, to provide veterans for presumptions of service connection for purposes of benefits under laws administered by Secretary of Veterans Affairs for diseases associated with service in the Armed Forces and exposure to biological, chemical, or other toxic agents as part of Project 112, 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. PRESUMPTIONS OF SERVICE CONNECTION FOR**
2 **PURPOSES OF BENEFITS UNDER LAWS AD-**
3 **MINISTERED BY SECRETARY OF VETERANS**
4 **AFFAIRS FOR DISEASES ASSOCIATED WITH**
5 **SERVICE IN THE ARMED FORCES AND EXPO-**
6 **SURE TO BIOLOGICAL, CHEMICAL, OR OTHER**
7 **TOXIC AGENTS AS PART OF PROJECT 112.**

8 (a) PRESUMPTION OF SERVICE CONNECTION.—Sub-
9 chapter I of chapter 11 of title 38, United States Code,
10 is amended by adding at the end the following new section:

11 **“§ 1119. Presumptions of service connection for dis-**
12 **eases associated with Project 112**

13 “(a) PRESUMPTION OF SERVICE CONNECTION.—(1)
14 For purposes of section 1110 of this title, and subject to
15 section 1113 of this title, each disease, if any, described
16 in paragraph (2) shall be considered to have been incurred
17 in or aggravated by service referred to in that paragraph,
18 notwithstanding that there is no record of evidence of such
19 disease during the period of such service.

20 “(2) A disease referred to in paragraph (1) is any
21 diagnosed disease that—

22 “(A) the Secretary determines in regulations
23 prescribed under this section to warrant a presump-
24 tion of service connection by reason of having an in-
25 creased incidence of exposure to a biological, chem-
26 ical, or other toxic agent known or presumed to be

1 associated with service in the Armed Forces during
2 which the veteran was subjected, directly or indi-
3 rectly, to a chemical or biological warfare test or
4 project under Project 112; and

5 “(B) becomes manifest within the period, if
6 any, prescribed in such regulations in a veteran who
7 served on active duty and was subjected, directly or
8 indirectly, to a chemical or biological warfare test or
9 project under Project 112 and by reason of such
10 service was exposed to such agent.

11 “(3) For purposes of this subsection, a veteran who
12 served on active duty and was subjected, directly or indi-
13 rectly, to a chemical or biological warfare test or project
14 under Project 112 and has a disease described in para-
15 graph (2) shall be presumed to have been exposed by rea-
16 son of such service to a biological, chemical, or other toxic
17 agent associated with the disease in the regulations pre-
18 scribed under this section unless there is conclusive evi-
19 dence to establish that the veteran was not exposed to the
20 agent by reason of such service.

21 “(b) DETERMINATION OF PRESUMPTION OF SERVICE
22 CONNECTION.—(1)(A) Whenever the Secretary makes a
23 determination described in subparagraph (B), the Sec-
24 retary shall prescribe regulations providing that a pre-
25 sumption of service connection is warranted for the dis-

1 ease covered by that determination for purposes of this
2 section.

3 “(B) A determination referred to in subparagraph
4 (A) is a determination based on sound medical and sci-
5 entific evidence that a positive association exists be-
6 tween—

7 “(i) the exposure of humans or animals to a bi-
8 ological, chemical, or other toxic agent known or
9 presumed to be associated with service in the Armed
10 Forces during which the veteran was subjected, di-
11 rectly or indirectly, to a chemical or biological war-
12 fare test or project under Project 112; and

13 “(ii) the occurrence of a diagnosed disease in
14 humans or animals.

15 “(2)(A) In making determinations for purposes of
16 paragraph (1), the Secretary shall take into account all
17 sound medical and scientific information and analyses
18 available to the Secretary.

19 “(B) In evaluating any report, information, or anal-
20 ysis for purposes of making such determinations, the Sec-
21 retary shall take into consideration whether the results are
22 statistically significant, are capable of replication, and
23 withstand peer review.

24 “(3) An association between the occurrence of a dis-
25 ease in humans or animals and exposure to a biological,

1 chemical, or other toxic agent shall be considered to be
2 positive for purposes of this subsection if the credible evi-
3 dence for the association is equal to or outweighs the cred-
4 ible evidence against the association.

5 “(c) REMOVAL OF PRESUMPTION.—Whenever the
6 presumption of service connection for a disease under this
7 section is removed under subsection (b)—

8 “(1) a veteran who was awarded compensation
9 for the disease on the basis of the presumption be-
10 fore the effective date of the removal of the pre-
11 sumption shall continue to be entitled to receive
12 compensation on that basis; and

13 “(2) a survivor of a veteran who was awarded
14 dependency and indemnity compensation for the
15 death of a veteran resulting from the disease on the
16 basis of the presumption before that date shall con-
17 tinue to be entitled to receive dependency and in-
18 demnity compensation on that basis.

19 “(d) PROJECT 112 DEFINED.—In this section, the
20 term ‘Project 112’ means the chemical and biological
21 weapons program conducted by the Department of De-
22 fense or any other Federal agency or federally funded enti-
23 ty through the Deseret Test Center and other similar fa-
24 cilities from approximately 1963 to 1973, including the

1 Shipboard Hazard and Defense Project (Project
2 SHAD).”.

3 (b) CLERICAL AMENDMENT.—The table of sections
4 at the beginning of such chapter is amended by adding
5 at the end of the items relating to subchapter I the fol-
6 lowing new item:

“1119. Presumptions of service connection for illnesses associated with service
in support of chemical or biological warfare tests or projects.”.

7 **SEC. 2. REGULATIONS, PERSONNEL RECORDS, AND RE-**
8 **PORT CONCERNING PROJECT 112.**

9 (a) REGULATIONS.—Not later than 180 days after
10 the date of enactment of this Act, the Secretary of Vet-
11 erans Affairs shall prescribe regulations to notify all vet-
12 erans potentially exposed to any biological or chemical
13 agent, simulant, tracer, or decontaminant during Project
14 112 of such potential exposure.

15 (b) PERSONNEL RECORDS.—Not later than 30 days
16 after the date of enactment of this Act, the Secretary of
17 Defense shall transmit to the Secretary of Veterans Af-
18 fairs all records of active duty personnel and reservists po-
19 tentially, directly or indirectly, exposed to any biological
20 or chemical agent, simulant, tracer, or decontaminant.

21 (c) REPORT.—Not later than 1 year after the date
22 of enactment of this Act, the Secretary of Defense, in con-
23 sultation with the Secretary of Veterans Affairs, shall sub-

1 mit to Congress a report concerning Project 112. The re-
2 port shall—

3 (1) document the costs, benefits, and challenges
4 associated with continuing the search for additional
5 Project 112 participants;

6 (2) provide a full accounting of all information
7 known concerning Project 112 participants; and

8 (3) address other concerns regarding Project
9 112 held by the Department of Veterans Affairs,
10 veterans, or veterans service organizations.

11 (d) PROJECT 112 DEFINED.—In this section, the
12 term “Project 112” means the chemical and biological
13 weapons program conducted by the Department of De-
14 fense or any other Federal agency or federally funded enti-
15 ty through the Deseret Test Center and other similar fa-
16 cilities from approximately 1963 to 1973, including the
17 Shipboard Hazard and Defense Project (Project SHAD).

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