

112TH CONGRESS
1ST SESSION

S. 791

To amend the Radiation Exposure Compensation Act to improve compensation for workers involved in uranium mining, and for other purposes.

IN THE SENATE OF THE UNITED STATES

APRIL 12, 2011

Mr. UDALL of New Mexico (for himself, Mr. BINGAMAN, Mr. BENNET, Mr. CRAPO, Mr. UDALL of Colorado, and Mr. RISCH) introduced the following bill; which was read twice and referred to the Committee on the Judiciary

A BILL

To amend the Radiation Exposure Compensation Act to improve compensation for workers involved in uranium mining, 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 “Radiation Exposure
5 Compensation Act Amendments of 2011”.

6 **SEC. 2. REFERENCES.**

7 Except as otherwise specifically provided, whenever in
8 this Act an amendment or repeal is expressed in terms
9 of an amendment to or repeal of a section or other provi-

1 sion of law, the reference shall be considered to be made
2 to a section or other provision of the Radiation Exposure
3 Compensation Act (Public Law 101–426; 42 U.S.C. 2210
4 note).

5 **SEC. 3. EXTENSION OF FUND.**

6 Section 3(d) is amended—

7 (1) by striking the first sentence and inserting
8 “The Fund shall terminate 19 years after the date
9 of the enactment of the Radiation Exposure Com-
10 pensation Act Amendments of 2011.”; and

11 (2) by striking “22-year” and inserting “19-
12 year”.

13 **SEC. 4. CLAIMS RELATING TO ATMOSPHERIC TESTING.**

14 (a) **LEUKEMIA CLAIMS RELATING TO TRINITY TEST**
15 **IN NEW MEXICO AND TESTS IN THE PACIFIC.**—Section
16 4(a)(1)(A) is amended—

17 (1) in clause (i)—

18 (A) in subclause (II)—

19 (i) by striking “in the affected area”
20 and inserting “in an affected area”; and

21 (ii) by striking “or” after the semi-
22 colon;

23 (B) by redesignating subclause (III) as
24 subclause (V); and

1 (C) by inserting after subclause (II) the
 2 following:

3 “(III) was physically present in
 4 an affected area for the period begin-
 5 ning on June 30, 1945, and ending on
 6 July 31, 1945; or

7 “(IV) was physically present in
 8 an affected area—

9 “(aa) for a period of at least
 10 1 year during the period begin-
 11 ning on June 30, 1946, and end-
 12 ing on August 19, 1958; or

13 “(bb) for the period begin-
 14 ning on April 25, 1962, and end-
 15 ing on November 5, 1962; or”; or

16 (2) in clause (ii)(I), by striking “physical pres-
 17 ence described in subclause (I) or (II) of clause (i)
 18 or onsite participation described in clause (i)(III)”
 19 and inserting “physical presence described in sub-
 20 clause (I), (II), (III), or (IV) of clause (i) or onsite
 21 participation described in clause (i)(V)”.

22 (b) AMOUNTS FOR CLAIMS RELATED TO LEU-
 23 KEMIA.—Section 4(a)(1) is amended—

24 (1) in subparagraph (A) by striking “an
 25 amount” and inserting “the amount”; and

1 (2) by striking subparagraph (B) and inserting
2 the following:

3 “(B) AMOUNT.—If the conditions de-
4 scribed in subparagraph (C) are met, an indi-
5 vidual who is described in subparagraph (A)(i)
6 shall receive \$150,000.”.

7 (c) SPECIFIED DISEASES CLAIMS RELATING TO
8 TRINITY TEST IN NEW MEXICO AND TESTS IN THE PA-
9 CIFIC.—Section 4(a)(2) is amended—

10 (1) in subparagraph (A), by striking “in the af-
11 fected area” and inserting “in an affected area”;

12 (2) in subparagraph (B)—

13 (A) by striking “in the affected area” and
14 inserting “in an affected area”; and

15 (B) by striking “or” at the end;

16 (3) by redesignating subparagraph (C) as sub-
17 paragraph (E); and

18 (4) by inserting after subparagraph (B) the fol-
19 lowing:

20 “(C) was physically present in an affected
21 area for the period beginning on June 30,
22 1945, and ending on July 31, 1945;

23 “(D) was physically present in an affected
24 area—

1 “(i) for a period of at least 2 years
2 during the period beginning on June 30,
3 1946, and ending on August 19, 1958; or
4 “(ii) for the period beginning on April
5 25, 1962, and ending on November 5,
6 1962; or”.

7 (d) AMOUNTS FOR CLAIMS RELATED TO SPECIFIED
8 DISEASES.—Section 4(a)(2) is amended in the matter fol-
9 lowing subparagraph (D) (as redesignated by subsection
10 (c) of this section) by striking “\$50,000 (in the case of
11 an individual described in subparagraph (A) or (B)) or
12 \$75,000 (in the case of an individual described in subpara-
13 graph (C)),” and inserting “\$150,000”.

14 (e) MEDICAL BENEFITS.—Section 4(a) is amended
15 by adding at the end the following:

16 “(5) MEDICAL BENEFITS.—An individual re-
17 ceiving a payment under this section shall be eligible
18 to receive medical benefits in the same manner and
19 to the same extent as an individual eligible to receive
20 medical benefits under section 3629 of the Energy
21 Employees Occupational Illness Compensation Pro-
22 gram Act (as enacted into law by Public Law 106-
23 398; 114 Stat. 165A-507).”.

24 (f) DOWNWIND STATES.—Section 4(b)(1) is amended
25 to read as follows:

1 “(1) ‘affected area’ means—

2 “(A) except as provided under subpara-
3 graphs (B) and (C), Arizona, Colorado, Idaho,
4 Montana, Nevada, New Mexico, and Utah;

5 “(B) with respect to a claim by an indi-
6 vidual under subsection (a)(1)(A)(i)(III) or
7 (2)(C), only New Mexico; and

8 “(C) with respect to a claim by an indi-
9 vidual under subsection (a)(1)(A)(i)(IV) or
10 (2)(D), only Guam.”.

11 **SEC. 5. CLAIMS RELATING TO URANIUM MINING.**

12 (a) EMPLOYEES OF MINES AND MILLS.—Section
13 5(a)(1)(A)(i) is amended—

14 (1) by inserting “(I)” after “(i)”;

15 (2) by striking “December 31, 1971; and” and
16 inserting “December 31, 1990; or”; and

17 (3) by adding at the end the following:

18 “(II) was employed as a core driller in
19 a State referred to in subclause (I) during
20 the period described in such subclause;
21 and”.

22 (b) MINERS.—Section 5(a)(1)(A)(ii)(I) is amended
23 by inserting “or renal cancer or any other chronic renal
24 disease, including nephritis and kidney tubal tissue in-
25 jury” after “nonmalignant respiratory disease”.

1 (c) MILLERS, CORE DRILLERS, AND ORE TRANS-
 2 PORTERS.—Section 5(a)(1)(A)(ii)(II) is amended—

3 (1) by inserting “, core driller,” after “was a
 4 miller”;

5 (2) by inserting “(I)” after “ clause (i)”; and

6 (3) by striking all that follows “nonmalignant
 7 respiratory disease” and inserting “or renal cancer
 8 or any other chronic renal disease, including nephri-
 9 tis and kidney tubal tissue injury; or”.

10 (d) COMBINED WORK HISTORIES.—Section
 11 5(a)(1)(A)(ii) is further amended—

12 (1) by striking “or” at the end of subclause (I);

13 and

14 (2) by adding at the end the following:

15 “(III)(aa) does not meet the con-
 16 ditions of subclause (I) or (II);

17 “(bb) worked, during the period
 18 described in clause (i)(I), in two or
 19 more of the following positions: miner,
 20 miller, core driller, and ore trans-
 21 porter;

22 “(cc) meets the requirements of
 23 paragraph (4) or (5), or both; and

24 “(dd) submits written medical
 25 documentation that the individual de-

1 developed lung cancer or a nonmalignant
2 respiratory disease or renal cancer
3 or any other chronic renal disease,
4 including nephritis and kidney tubal
5 tissue injury after exposure to radiation
6 through work in one or more of
7 the positions referred to in item
8 (aa);”.

9 (e) DATES OF OPERATION OF URANIUM MINE.—Section
10 5(a)(2)(A) is amended by striking “December 31,
11 1971” and inserting “December 31, 1990”.

12 (f) SPECIAL RULES RELATING TO COMBINED WORK
13 HISTORIES.—Section 5(a) is amended by adding at the
14 end the following:

15 “(4) SPECIAL RULE RELATING TO COMBINED
16 WORK HISTORIES FOR INDIVIDUALS WITH AT LEAST
17 ONE YEAR OF EXPERIENCE.—An individual meets
18 the requirements of this paragraph if the individual
19 worked in one or more of the positions referred to
20 in paragraph (1)(A)(ii)(III)(bb) for a period of at
21 least one year during the period described in paragraph
22 (1)(A)(i)(I).

23 “(5) SPECIAL RULE RELATING TO COMBINED
24 WORK HISTORIES FOR MINERS.—An individual
25 meets the requirements of this paragraph if the indi-

1 vidual, during the period described in paragraph
2 (1)(A)(i)(I), worked as a miner and was exposed to
3 such number of working level months that the Attor-
4 ney General determines, when combined with the ex-
5 posure of such individual to radiation through work
6 as a miller, core driller, or ore transporter during
7 the period described in paragraph (1)(A)(i)(I), re-
8 sults in such individual being exposed to a total level
9 of radiation that is greater or equal to the level of
10 exposure of an individual described in paragraph
11 (4).”.

12 (g) DEFINITION OF CORE DRILLER.—Section 5(b) is
13 amended—

14 (1) by striking “and” at the end of paragraph
15 (7);

16 (2) by striking the period at the end of para-
17 graph (8) and inserting “; and”; and

18 (3) by adding at the end the following:

19 “(9) the term ‘core driller’ means any indi-
20 vidual employed to engage in the act or process of
21 obtaining cylindrical rock samples of uranium or va-
22 nadium by means of a borehole drilling machine for
23 the purpose of mining uranium or vanadium.”.

1 **SEC. 6. EXPANSION OF USE OF AFFIDAVITS IN DETERMINA-**
2 **TION OF CLAIMS; REGULATIONS.**

3 (a) AFFIDAVITS.—Section 6(b) is amended by adding
4 at the end the following:

5 “(3) AFFIDAVITS.—

6 “(A) EMPLOYMENT HISTORY.—For pur-
7 poses of this Act, the Attorney General shall ac-
8 cept a written affidavit or declaration as evi-
9 dence to substantiate the employment history of
10 an individual as a miner, miller, core driller, or
11 ore transporter if the affidavit—

12 “(i) is provided in addition to other
13 material that may be used to substantiate
14 the employment history of the individual;

15 “(ii) attests to the employment history
16 of the individual;

17 “(iii) is made subject to penalty for
18 perjury; and

19 “(iv) is made by a person other than
20 the individual filing the claim.

21 “(B) PHYSICAL PRESENCE IN AFFECTED
22 AREA.—For purposes of this Act, the Attorney
23 General shall accept a written affidavit or dec-
24 laration as evidence to substantiate an individ-
25 ual’s physical presence in an affected area dur-

1 ing a period described in section 4(a)(1)(A)(i)
2 or section 4(a)(2) if the affidavit—

3 “(i) is provided in addition to other
4 material that may be used to substantiate
5 the individual’s presence in an affected
6 area during that time period;

7 “(ii) attests to the individual’s pres-
8 ence in an affected area during that pe-
9 riod;

10 “(iii) is made subject to penalty for
11 perjury; and

12 “(iv) is made by a person other than
13 the individual filing the claim.

14 “(C) PARTICIPATION AT TESTING SITE.—
15 For purposes of this Act, the Attorney General
16 shall accept a written affidavit or declaration as
17 evidence to substantiate an individual’s partici-
18 pation onsite in a test involving the atmospheric
19 detonation of a nuclear device if the affidavit—

20 “(i) is provided in addition to other
21 material that may be used to substantiate
22 the individual’s participation onsite in a
23 test involving the atmospheric detonation
24 of a nuclear device;

1 “(ii) attests to the individual’s partici-
2 pation onsite in a test involving the atmos-
3 pheric detonation of a nuclear device;

4 “(iii) is made subject to penalty for
5 perjury; and

6 “(iv) is made by a person other than
7 the individual filing the claim.”.

8 (b) TECHNICAL AND CONFORMING AMENDMENTS.—
9 Section 6 is amended—

10 (1) in subsection (b)(2)(C), by striking “section
11 4(a)(2)(C)” and inserting “section 4(a)(2)(E)”;

12 (2) in subsection (c)(2)—

13 (A) in subparagraph (A)—

14 (i) in the first sentence, by striking
15 “subsection (a)(1), (a)(2)(A), or (a)(2)(B)
16 of section 4” and inserting “subsection
17 (a)(1), (a)(2)(A), (a)(2)(B), (a)(2)(C), or
18 (a)(2)(D) of section 4”; and

19 (ii) in clause (i), by striking “sub-
20 section (a)(1), (a)(2)(A), or (a)(2)(B) of
21 section 4” and inserting “subsection
22 (a)(1), (a)(2)(A), (a)(2)(B), (a)(2)(C), or
23 (a)(2)(D) of section 4”; and

1 (B) in subparagraph (B), by striking “sec-
2 tion 4(a)(2)(C)” and inserting “section
3 4(a)(2)(E)”; and

4 (3) in subsection (e), by striking “subsection
5 (a)(1), (a)(2)(A), or (a)(2)(B) of section 4” and in-
6 serting “subsection (a)(1), (a)(2)(A), (a)(2)(B), or
7 (a)(2)(C) of section 4”.

8 (c) REGULATIONS.—Section 6(k) is amended by add-
9 ing at the end the following: “Not later than 180 days
10 after the date of enactment of the Radiation Exposure
11 Compensation Act Amendments of 2011, the Attorney
12 General shall issue revised regulations to carry out this
13 Act.”.

14 **SEC. 7. LIMITATION ON CLAIMS.**

15 (a) EXTENSION OF FILING TIME.—Section 8(a) is
16 amended—

17 (1) by striking “22 years” and inserting “19
18 years”; and

19 (2) by striking “2000” and inserting “2011”.

20 (b) RESUBMITTAL OF CLAIMS.—Section 8(b) is
21 amended to read as follows:

22 “(b) RESUBMITTAL OF CLAIMS.—

23 “(1) DENIED CLAIMS.—After the date of enact-
24 ment of the Radiation Exposure Compensation Act
25 Amendments of 2011, any claimant who has been

1 denied compensation under this Act may resubmit a
2 claim for consideration by the Attorney General in
3 accordance with this Act not more than three times.
4 Any resubmittal made before the date of the enact-
5 ment of the Radiation Exposure Compensation Act
6 Amendments of 2011 shall not be applied to the lim-
7 itation under the preceding sentence.

8 “(2) PREVIOUSLY SUCCESSFUL CLAIMS.—

9 “(A) IN GENERAL.—After the date of en-
10 actment of the Radiation Exposure Compensa-
11 tion Act Amendments of 2011, any claimant
12 who received compensation under this Act may
13 submit a request to the Attorney General for
14 additional compensation and benefits. Such re-
15 quest shall contain—

16 “(i) the claimant’s name, social secu-
17 rity number, and date of birth;

18 “(ii) the amount of award received
19 under this Act before the date of enact-
20 ment of the Radiation Exposure Com-
21 pensation Act Amendments of 2011;

22 “(iii) any additional benefits and com-
23 pensation sought through such request;
24 and

1 “(iv) any additional information re-
2 quired by the Attorney General.

3 “(B) ADDITIONAL COMPENSATION.—If the
4 claimant received compensation under this Act
5 before the date of enactment of the Radiation
6 Exposure Compensation Act Amendments of
7 2011 and submits a request under subpara-
8 graph (A), the Attorney General shall—

9 “(i) pay the claimant the amount that
10 is equal to any excess of—

11 “(I) the amount the claimant is
12 eligible to receive under this Act (as
13 amended by the Radiation Exposure
14 Compensation Act Amendments of
15 2011); minus

16 “(II) the aggregate amount paid
17 to the claimant under this Act before
18 the date of enactment of the Radi-
19 ation Exposure Compensation Act
20 Amendments of 2011; and

21 “(ii) in any case in which the claimant
22 was compensated under section 4, provide
23 the claimant with medical benefits under
24 section 4(a)(5).”.

1 **SEC. 8. ATTORNEY FEES.**

2 Section 9(b)(1) is amended by striking “2 percent”
3 and inserting “10 percent”.

4 **SEC. 9. GRANT PROGRAM ON EPIDEMIOLOGICAL IMPACTS**
5 **OF URANIUM MINING AND MILLING.**

6 (a) DEFINITIONS.—In this section—

7 (1) the term “institution of higher education”
8 has the meaning given under section 101 of the
9 Higher Education Act of 1965 (20 U.S.C. 1001);

10 (2) the term “program” means the grant pro-
11 gram established under subsection (b); and

12 (3) the term “Secretary” means the Secretary
13 of Health and Human Services.

14 (b) ESTABLISHMENT.—The Secretary shall establish
15 a grant program relating to the epidemiological impacts
16 of uranium mining and milling. Grants awarded under the
17 program shall be used for the study of the epidemiological
18 impacts of uranium mining and milling among non-occu-
19 pationally exposed individuals, including family members
20 of uranium miners and millers.

21 (c) ADMINISTRATION.—The Secretary shall admin-
22 ister the program through the National Institute of Envi-
23 ronmental Health Sciences.

24 (d) ELIGIBILITY AND APPLICATION.—Any institution
25 of higher education or nonprofit private entity shall be eli-
26 gible to apply for a grant. To apply for a grant an eligible

1 institution or entity shall submit to the Secretary an appli-
2 cation at such time, in such manner, and containing or
3 accompanied by such information as the Secretary may
4 reasonably require.

5 (e) AUTHORIZATION OF APPROPRIATIONS.—There
6 are authorized to be appropriated to carry out this section
7 \$3,000,000 for each of fiscal years 2013 through 2017.

8 **SEC. 10. ENERGY EMPLOYEES OCCUPATIONAL ILLNESS**
9 **COMPENSATION PROGRAM.**

10 (a) COVERED EMPLOYEES WITH CANCER.—Section
11 3621(9) of the Energy Employees Occupational Illness
12 Compensation Program Act of 2000 (42 U.S.C. 7384l(9))
13 is amended by striking subparagraph (A) and inserting
14 the following:

15 “(A) An individual with a specified cancer
16 who is a member of the Special Exposure Co-
17 hort, if and only if—

18 “(i) that individual contracted that
19 specified cancer after beginning employ-
20 ment at a Department of Energy facility
21 (in the case of a Department of Energy
22 employee or Department of Energy con-
23 tractor employee) or at an atomic weapons
24 employer facility (in the case of an atomic
25 weapons employee); or

1 “(ii) that individual—

2 “(I) contracted that specified
3 cancer after beginning employment in
4 a uranium mine or uranium mill de-
5 scribed under section 5(a)(1)(A)(i) of
6 the Radiation Exposure Compensation
7 Act (42 U.S.C. 2210 note) (including
8 any individual who was employed in
9 core drilling or the transport of ura-
10 nium ore or vanadium-uranium ore
11 from such mine or mill) located in
12 Colorado, New Mexico, Arizona, Wyo-
13 ming, South Dakota, Washington,
14 Utah, Idaho, North Dakota, Oregon,
15 Texas, or any State the Attorney Gen-
16 eral makes a determination under sec-
17 tion 5(a)(2) of that Act for inclusion
18 of eligibility under section 5(a)(1) of
19 that Act; and

20 “(II) was employed in a uranium
21 mine or uranium mill described under
22 subclause (I) (including any individual
23 who was employed in core drilling or
24 the transport of uranium ore or vana-
25 dium-uranium ore from such mine or

1 mill) at any time during the period
2 beginning on January 1, 1942, and
3 ending on December 31, 1990.”.

4 (b) MEMBERS OF SPECIAL EXPOSURE COHORT.—
5 Section 3626 of the Energy Employees Occupational Ill-
6 ness Compensation Program Act of 2000 (42 U.S.C.
7 7384q) is amended—

8 (1) in subsection (a), by striking paragraph (1)
9 and inserting the following:

10 “(1) The Advisory Board on Radiation and
11 Worker Health under section 3624 shall advise the
12 President whether there is a class of employees—

13 “(A) at any Department of Energy facility
14 who likely were exposed to radiation at that fa-
15 cility but for whom it is not feasible to estimate
16 with sufficient accuracy the radiation dose they
17 received; and

18 “(B) employed in a uranium mine or ura-
19 nium mill described under section 5(a)(1)(A)(i)
20 of the Radiation Exposure Compensation Act
21 (42 U.S.C. 2210 note) (including any individual
22 who was employed in core drilling or the trans-
23 port of uranium ore or vanadium-uranium ore
24 from such mine or mill) located in Colorado,
25 New Mexico, Arizona, Wyoming, South Dakota,

1 Washington, Utah, Idaho, North Dakota, Or-
2regon, Texas, and any State the Attorney Gen-
3eral makes a determination under section
45(a)(2) of that Act for inclusion of eligibility
5under section 5(a)(1) of that Act, at any time
6during the period beginning on January 1,
71942, and ending on December 31, 1990 who
8likely were exposed to radiation at that mine or
9mill but for whom it is not feasible to estimate
10with sufficient accuracy the radiation dose they
11received.”; and

12 (2) by striking subsection (b) and inserting the
13 following:

14 “(b) DESIGNATION OF ADDITIONAL MEMBERS.—

15 “(1) Subject to the provisions of section
163621(14)(C), the members of a class of employees at
17a Department of Energy facility, or at an atomic
18weapons employer facility, may be treated as mem-
19bers of the Special Exposure Cohort for purposes of
20the compensation program if the President, upon
21recommendation of the Advisory Board on Radiation
22and Worker Health, determines that—

23 “(A) it is not feasible to estimate with suf-
24ficient accuracy the radiation dose that the
25class received; and

1 “(B) there is a reasonable likelihood that
2 such radiation dose may have endangered the
3 health of members of the class.

4 “(2) Subject to the provisions of section
5 3621(14)(C), the members of a class of employees
6 employed in a uranium mine or uranium mill de-
7 scribed under section 5(a)(1)(A)(i) of the Radiation
8 Exposure Compensation Act (42 U.S.C. 2210 note)
9 (including any individual who was employed in core
10 drilling or the transport of uranium ore or vana-
11 dium-uranium ore from such mine or mill) located in
12 Colorado, New Mexico, Arizona, Wyoming, South
13 Dakota, Washington, Utah, Idaho, North Dakota,
14 Oregon, Texas, and any State the Attorney General
15 makes a determination under section 5(a)(2) of that
16 Act for inclusion of eligibility under section 5(a)(1)
17 of that Act, at any time during the period beginning
18 on January 1, 1942, and ending on December 31,
19 1990 may be treated as members of the Special Ex-
20 posure Cohort for purposes of the compensation pro-
21 gram if the President, upon recommendation of the
22 Advisory Board on Radiation and Worker Health,
23 determines that—

1 “(A) it is not feasible to estimate with suf-
2 ficient accuracy the radiation dose that the
3 class received; and

4 “(B) there is a reasonable likelihood that
5 such radiation dose may have endangered the
6 health of members of the class.”.

○