

HOUSE COMMITTEE ON **VETERANS' AFFAIRS**

REPUBLICANS | RANKING MEMBER MIKE BOST

The SFC Heath Robinson Honoring Our PACT Act

The SFC Heath Robinson Honoring Our PACT Act, also known as the PACT Act, is comprehensive legislation to connect veterans who were exposed to burn pits or other dangerous toxins in service to our country with the care and benefits they have earned from the Department of Veterans Affairs (VA).

SUMMARY

TITLE I - Expansion of Health Care Eligibility

Subtitle A – Toxic-exposed Veterans

Section 101: Short title - This section would establish the short title of this Title as the “Conceding Our Veterans’ Exposures Now And Necessitating Training Act of 2022” or the “COVENANT Act of 2022”.

Section 102: Definitions relating to toxic-exposed veterans – This section would define “toxic exposure” as a toxic risk activity or an exposure to certain substances, chemicals, or airborne hazards.

This section would define “toxic exposure risk activity” as any activity that requires a corresponding entry into any exposure tracking record system and authorize the Secretary to determine what qualifies as an exposure should it be considered prudent regardless of tracking system parameters.

Section 103: Expansion of health care for specific categories of toxic-exposed veterans and veterans supporting certain overseas contingency operations - This section would expand access to hospital care, medical services, and nursing home care under Priority Group 6 for three categories of veterans: those who participated in a toxic exposure risk activity while serving on active duty, active duty for training, or inactive duty for training; those who served in certain locations during specific periods of time; or those who deployed in support of specific contingency operations.

This section would phase in eligibility for care beginning October 1, 2024, through October 1, 2030, based on the veteran's discharge or release date. Those veterans identified as eligible due to deployments to specific operations and discharged or released after will be eligible for care beginning October 1, 2032.

This section would authorize the Secretary of Veterans Affairs (the Secretary) to modify the start to an earlier date for any phase if VA has the resources available by notifying Congress and publishing the new date in the Federal Register.

This section would require the Secretary to submit an outreach plan describing how VA will notify veterans of their eligibility under each phase of enrollment.

Section 104: Assessment of implementation and operation – This section would require the Secretary, within 180 days of enactment, to provide Congress an assessment determining the personnel and material resources needed to implement Section 103.

This section would require VA to establish information systems not later than October 1, 2024, to assess the implementation of Section 103.

This section would require annual reports on the effect of implementation on the provision and management of care, patterns of demand for health care services, the extent to which VA has met such demand, and any changes to patterns of care delivery to include fiscal impacts.

Subtitle B – Certain Veterans of Combat Service and Other Matters

Section 111: Expansion of period of eligibility for health care for certain veterans of combat service – This section would expand the period of enhanced eligibility for combat veterans under priority group 6, from five to ten years following discharge.

This section would create a one-year open enrollment period for certain Post-9/11 combat veterans who did not enroll during the initial five years following discharge.

This section would clarify the inclusion of covered veterans to include those who were awarded certain service medals or combat theater awards.

This section would require an outreach plan and a report on the number of veterans who enrolled in healthcare under this title.

Title II - Toxic Exposure Presumption Process

Section 201: Short Title – This section would establish the short title of this Title as the “Toxic Exposure in the American Military Act of 2022” or the “TEAM Act of 2022”.

Section 202: Improvements to ability of Department of Veterans Affairs to establish presumptions of service connection based on toxic exposure – This section would establish a regulatory framework for the establishment of presumptions of service connection related to toxic exposure, as detailed below.

This section would require the Secretary to publish on the Federal Register VA's plan for formally evaluating which health conditions warrant a presumption of exposure and provide a public comment period and open meetings for the public to voice comments on such plan.

This section would require the Secretary to enter into a five-year agreement with the National Academies of Sciences, Engineering, and Medicine (NASEM). NASEM would conduct a review of the strength of the association between health effects that may be linked to toxic exposure.

This section would codify VA's working group comprised of Veterans Health Administration (VHA) and Veterans Benefits Administration (VBA) employees that assesses toxic exposures and which conditions may be linked to such toxic exposures. The working group would be required to provide an annual report to House Veterans Affairs Committee (HVAC) and the Senate Veterans Affairs Committee (SVAC) of its recommendations to the Secretary for which conditions should receive a formal evaluation of the strength of the association between the exposure and an adverse health outcome.

This section would require the Secretary to establish a process for conducting a formal evaluation of each condition recommended by the working group within 30 days of the working group submitting the report. It would also allow the Secretary to conduct formal evaluations following NASEM reports.

This section would, within 120 days of the commencement of the formal evaluation, require the element of VA conducting a formal evaluation to provide a recommendation to the Secretary about whether to establish a presumption of service connection or modify an existing presumption of service connection.

This section would, within 160 days of receiving such recommendation following the formal evaluation, require the Secretary to decide whether to establish or modify a presumption of service connection, or publicly comment in the Federal Register why a presumption is not warranted with the supporting rationale. If the Secretary determines that a presumption is warranted, the Secretary must commence the rulemaking process.

This section would also allow the Secretary to publish proposed regulations to remove a presumption of service connection for presumptive conditions established under this bill if evidence suggests the lack of an association between an exposure and the condition. If the Secretary removes a presumption of service connection, no veterans or survivor would have their compensation reduced solely on the basis of the removal.

This section would also provide the Secretary the authority to modify the framework under certain parameters, but the Secretary must notify and justify the proposed changes to Congress.

This section would require the Secretary to enter into an agreement with NASEM to assess the Department's implementation of the framework, including whether the process is in accordance with current scientific standards, whether the criteria is fair and consistent, and provide recommended improvements.

Section 203: Outreach to claimants for disability compensation pursuant to changes in presumptions of service connection – This section would, whenever a regulation, law, or Federal court decision establishes or modifies a presumption of service connection, require the Secretary to conduct outreach to veterans whose compensation claims were previously denied in order to inform them of their ability to submit a new claim.

Section 204: Reevaluation of claims for dependency and indemnity compensation involving presumptions of service connection – This section would, whenever a regulation, law, or Federal court decision establishes or modifies a presumption of service connection, require the Secretary to conduct outreach to survivors whose dependency and indemnity compensation claims were previously denied in order to inform them of their ability to submit a new claim. The effective date of the claim would be the date the survivor filed the first (prior) claim.

Title III - Improving the Establishment of Service Connection Process for Toxic Exposure Veterans

Section 301: Short Title – This section would establish the short title of this Title as the “Veterans Burn Pits Exposure Recognition Act of 2022”.

Section 302: Presumptions of toxic exposure – This section would require VA to consider the veteran's Individual Longitudinal Exposure Record (ILER) when adjudicating a claim. This section would also provide a presumption of exposure to specific substances, chemicals, and hazards for certain veterans based on the receipt of certain medals and service in covered locations. This section would require the Secretary to establish such list of substances, chemicals, and hazards.

Section 303: Medical nexus examinations for toxic exposure risk activities – This section would require VA to provide certain toxic-exposed veterans with a disability exam and opinion.

Title IV - Presumptions of Service Connection

Section 401: Treatment of veterans who participated in cleanup of Enewetak Atoll as radiation-exposed veterans for purposes of presumption of service connection of certain disabilities by Department of Veterans Affairs – This section would establish the short title of this section as the “Mark Takai Atomic Veterans Healthcare Parity Act of 2022.”

This section would extend the presumption of exposure to radiation for veterans who served in the Enewetak Atoll cleanup operations between the period starting on January 1, 1977, and ending on December 31, 1980.

Section 402: Treatment of veterans who participated in nuclear response near Palomares, Spain, as radiation-exposed veterans for purposes of presumption of service-connection of certain disabilities by Department of Veterans Affairs – This section would establish the short title of this section as the “Palomares or Thule Veterans Act of 2022.”

This section would extend the presumption of exposure to ionizing radiation to veterans who participated in the cleanup of Palomares, Spain from January 17, 1966, to March 31, 1967, and Thule Air Force Base, Greenland from January 21, 1968, to September 25, 1968.

Section 403: Presumptions of service connection for diseases associated with exposures to certain herbicide agents for veterans who served in certain locations – This section would establish the short title of this section as the “Veterans Agent Orange Exposure Equity Act of 2022.”

This section would expand the presumption of exposure to herbicides and eligibility for VA healthcare to certain veterans who served in Thailand, Laos, Cambodia, Guam, American Samoa, and Johnston Atoll during specific time periods.

This section would go into effect immediately for eligible veterans who are terminally ill, homeless, under extreme financial hardship, or are over 85 years old, and for dependency and indemnity compensation claimants. For all other eligible veterans, this section would take effect on October 1, 2022.

Section 404: Addition of additional diseases associated with exposure to certain herbicide agents for which there is a presumption of service connection for veterans who served in the certain locations – This section would establish the short title of this section as the as the “Fair Care for Vietnam Veterans Act of 2022.”

This section would expand the list of conditions eligible for a presumption of exposure to herbicides, such as Agent Orange, for certain Vietnam-era veterans to hypertension and monoclonal gammopathy of undetermined significance (MGUS). This section would go into effect upon enactment for eligible veterans with MGUS. This section would go into effect upon enactment for eligible veterans with Hypertension who are terminally ill, homeless, under extreme financial hardship, or are over 85 years old, and for dependency and indemnity compensation claimants. For all other eligible veterans with Hypertension, this section would take effect on October 1, 2026.

Section 405: Improving compensation for disabilities occurring in Persian Gulf War veterans – This section would permanently extend the period of eligibility for compensation based on Gulf War Illness, remove the Secretary's authority to prescribe a manifestation period for the development of a chronic disability following service in the Southwest Asia theatre of operations, require the Secretary to develop a single disability benefits questionnaire for Gulf War Illness, expand the definition of Personal Gulf Veteran to include Afghanistan, Israel, Egypt, Turkey, Syria, and Jordan, and require VA to provide training to carry out this section.

Section 406: Presumption of service connection for certain diseases associated with exposure to burn pits and other toxins – This section would establish the short title of this section as the “Presumptive Benefits for War Fighters Exposed to Burn Pits and Other Toxins Act of 2022”.

This section would also mandate a list of 24 conditions eligible for the presumption of exposure to certain substances, toxins, and chemicals (burn pits and other airborne hazards) defined in Sec. 302. Such conditions include: asthma; the following cancers of any type: head, neck, respiratory, gastrointestinal, reproductive, lymphoma, lymphomatic, kidney, brain, melanoma, and pancreatic; chronic obstructive pulmonary disease; chronic bronchitis; constrictive or obliterative bronchiolitis; emphysema; granulomatous disease; pulmonary fibrosis; interstitial lung disease; sarcoidosis; glioblastoma; chronic rhinitis; and, chronic sinusitis.

This section would go into effect on enactment for all eligible veterans who are terminally ill, homeless, under extreme financial hardship, or are over 85 years old, and for dependency and indemnity compensation claimants. This section would also go into effect on enactment for the following conditions: asthma, respiratory cancer of any type,

brain cancer, constrictive bronchiolitis or obliterative bronchiolitis, emphysema, granulomatous disease, interstitial lung disease, pleuritis, pulmonary fibrosis, sarcoidosis, chronic sinusitis, chronic rhinitis, and glioblastoma.

For all other eligible individuals, this section would go into effect on October 1, 2023, for chronic bronchitis, and chronic obstructive pulmonary disease; on October 1, 2024, for head cancer of any type, neck cancer of any type, gastrointestinal cancer of any type, reproductive cancer of any type, lymphoma cancer of any type, lymphomatic cancer of any type, and pancreatic cancer; and October 1, 2025, for kidney cancer and melanoma.

Section 407: Rule of construction – This section would establish a rule of construction that nothing in this Act shall be construed to prevent the Secretary from processing claims, which are eligible for a presumption of service connection, under the rules of direct service connection. This section would also prohibit the Secretary from denying a pending claim for benefits because the claimant filed the claim prior to the presumption of service connection going into effect.

Title V – Research Matters

Section 501: Interagency working group on toxic exposure research - This section would direct the Secretary to convene a working group comprised of Department of Veterans Affairs (VA), Department of Defense (DOD), Department of Health and Human Services (HHS), the Environmental Protection Agency (EPA), and other federal entities involved in research on the health consequences of toxic exposures experienced during military service.

This section would require the working group identify collaborative research activities and available resources within membership entities and to develop a five-year strategic plan to carry out such activities.

This section would require the Secretary to report annually to Congress on research activities and implementation of the strategic plan.

Section 502: Analysis and report on the treatment of veterans for medical conditions related to toxic exposure - This section would require the Secretary to analyze clinical data for veterans receiving health care under this title to identify potential associations between veteran medical conditions and toxic exposure.

This section would require the Secretary to report annually to Congress on the data and findings, to include scientific validity, derived from the analysis of such data.

Section 503: Analysis relating to mortality of veterans who served in Southwest Asia -

This section would require the Secretary of Veterans Affairs, in coordination with the Secretary of Defense, to perform a mortality analysis on covered veterans who served in certain locations and during certain time periods.

Section 504: Study on health trends of post 9/11 veterans - This section would require an epidemiological study on the health trends of veterans who served in the Armed Forces after September 11, 2001.

Section 505: Study on cancer rates among veterans - This section would require a study on the incidence of cancer in veterans, to include demographics and trends.

Section 506: Study on health effects of waste related to Manhattan Project on certain veterans - This section would direct the Secretary to enter into an agreement with NASEM to conduct a study on the health trends of veterans who participated in the Manhattan Project or resided near certain identified locations. The Secretary would be required report to Congress with an analysis of the data and on its reliability.

Section 507: Study on toxic exposure and mental health outcomes - This section would direct the Secretary to enter into an agreement with NASEM to conduct a study on veterans to assess possible relationships between toxic exposure experienced during service and certain mental health conditions.

Section 508: Study on veterans in Territories of the United States - This section would require the Government Accountability Office (GAO) to conduct a study on access and barriers to VA benefits and healthcare services in the territories (American Samoa, Northern Marianas Islands, Guam, Puerto Rico, and the Virgin Islands) and the freely associated states of the US (Federated States of Micronesia, Marshall Islands, and the Republic of Palau).

Section 509: Department of Veterans Affairs public website for toxic exposure research - This section would require the Secretary to establish and maintain a public website that serves as an information clearinghouse for all toxic exposure research carried out or funded by the federal government.

Section 510: Report on health effects of jet fuels used by Armed Forces – This section would require the Secretary to submit a report to Congress on the health effects of jet fuel exposure, identification of health safeguards, and need for additional research on the health effects of jet fuel exposure.

Title VI – Improvement of Resources and Training Regarding Toxic-Exposed Veterans

Section 601: Short Title; Definitions - This section would establish the short title of this Title as the “Fairly Assessing Service-related Toxic Exposure Residuals Presumptions Act of 2022” or the “FASTER Presumption Act of 2022”.

This section would define “active military, naval, or air service”, “toxic exposure”, and “toxic-exposed veteran” as those terms defined in section 101 of Title 38.

Section 602: Publication of list of resources of Department of Veterans Affairs for toxic-exposed veterans and veterans who report toxic exposures and outreach program for such veterans and caregivers and survivors of such veterans - This section would require the Secretary to publish a list of the benefits and healthcare resources available to toxic-exposed veterans, and families, caregivers, and survivors of those veterans, within one year after the date of enactment, and to update the list periodically.

This section would require the Secretary to develop an outreach program for veterans regarding benefits and support programs related to illnesses that may be related toxic exposure.

Section 603: Incorporation of toxic exposure screening for veterans - This section would require clinical toxic exposure screening for all enrollees eligible as a result of this title and then no less frequently than once every five years. The screening, updated biennially, would be required to include a question about a veteran’s potential exposure to an open burn pit and a question regarding symptoms commonly associated with military environmental exposure.

Section 604: Training for personnel of the Department of Veterans Affairs with respect to veterans who report toxic exposures - This section would require toxic exposure-related education and training for VA health care and benefits personnel.

Title VII - Resourcing

Section 702: Authorization of major medical facility lease of Department of Veterans Affairs for Fiscal Year 2023 – This section would authorize fiscal year 2023 appropriations for the establishment of 31 major medical facility leases and research facilities in nineteen states.

Section 703: Treatment of major medical facility leases of the Department of Veterans Affairs – This section would modify the Congressional authorization process for major medical facility leases to only require a resolution of approval from HVAC/SVAC.

This section would redefine the term “major medical facility lease” to conform with the rate thresholds as defined by General Services Administration (GSA) in Title 40 United States Code.

This section would clarify prospectus information required when submitting a proposal for a major medical facility lease.

Section 704: Authority to enter into agreements with academic affiliates and other entities to acquire space for the purpose of providing health-care resources to veterans – This section would authorize the Secretary to enter into a lease with an academic affiliate or similar covered entity for the purposes of providing health care space or resources.

Section 705: Modifications to enhanced-use lease authority of Department of Veterans Affairs - This section would expand existing enhanced-use lease authority to include use beyond homeless housing as long as it is not inconsistent with VA’s mission, does not adversely impact operations, and either directly or indirectly supports veterans.

This section would extend the maximum term for Enhanced Use Leases to 99 years and authorizes appropriations for FY 2022.

Section 706: Authority for joint leasing actions of Department of Defense and Department of Veterans Affairs – This section would authorize the transfer of appropriated amounts between VA and DOD for the purposes of leasing spaces for shared medical facilities.

Section 707: Appropriation of amounts for major medical facility leases – This section would authorize FY 2023 appropriations for major medical facility leases as well as additional amounts until expended for facilities identified under the thresholds modified or established in this title.

Title VII - Resourcing

Section 701: Authority to use Appropriations to Enhance Claims Processing Capacity and Automation – This section would allow the Secretary to use such funds as is necessary from the Cost of War Veterans Toxic Exposure Fund established in section 805 to pay for the modernization of VBA IT systems, to include expanding the use of automation, in order to support the expected increase in claims VA would receive under this bill. This section would, within 180 days of enactment, require the Secretary to submit to the appropriate Congressional Committees VA’s plan to modernize VBA’s IT systems.

Title VIII – Records and Other Matters

801. Epidemiological study on Fort McClellan veterans – This section would require the Secretary to conduct an epidemiological study on the health trends of veterans who were stationed at Fort McClellan between January 1, 1935, and May 20, 1999.

Section 802: Biennial briefing on Individual Longitudinal Exposure Record - This section would require the Secretary of Defense, in consultation with the Secretary of Veterans Affairs, to provide a briefing to Congress regarding quality of the data in ILER, once it achieves full operational capability, and the usefulness of the ILER record in supporting members of the Armed Forces and veterans in receiving healthcare and benefits.

Section 802: Biennial briefing on Individual Longitudinal Exposure Record – This section would require the Secretary of Defense, in consultation with the Secretary of VA, to provide a briefing to the appropriate Congressional Committees on the quality of data databases that provide information for ILER as well as the usefulness of ILER.

Section 803: Correction of toxic exposure records – This section would require the Secretary to provide a means for veterans to update their toxic exposure record in ILER.

Section 804: Federal Cause of Action Relating to Water at Camp Lejeune, North Carolina – This section would establish the short title of this section as the “Camp Lejeune Justice Act of 2022.”

This section would create a new federal cause of action to allow any individual, including a veteran, to sue the United States for harm allegedly caused by exposure to the water at Camp LeJeune. It would make the venue for all suits the U.S. District Court in the Eastern District of North Carolina.

Section 805: Cost of War Toxic Exposures Fund – This section would create a new Fund (a new account, consisting of mandatory appropriations). The Fund would be authorized, beginning in fiscal year 2023, “such sums” as necessary to increase funding over fiscal year 2021 levels for the delivery of health care associated with exposure to environmental hazards, any expenses (including administrative expenses such as information technology and claims processing and appeals) incident to the delivery of health care and benefits associated with exposure to environmental hazards, and medical and other research relating to exposure to environmental hazards.

This section would further stipulate that expenses authorized to the Fund will be estimated and treated as direct (mandatory) spending for the purposes of PAYGO.

Finally, this section would direct the Secretary to include estimates for the Fund in the President’s annual budget submission and to consult with the House and Senate Committees on Appropriations to develop policies and procedures for these estimates.

Section 806: Appropriation for Fiscal Year 2022 – This section would appropriate \$500 million for the Fund for fiscal year 2022, to remain available through fiscal year 2024.

This section would also require the Secretary to submit a spend plan within 30 days of enactment.

Section 807: Authorization of Electronic Notice in Claims Under Laws Administered by the Secretary of Veterans Affairs – This section would provide VA claimants with the ability to “opt-in” to electronic notification of decisions made on their claim or appeal, but still mail letters to those who do not opt-in.

Title IX – Improvement of Workforce of Department of Veterans Affairs

Section 901: National rural recruitment and hiring plan for Veterans Health Administration

- This section would require the Secretary to develop and implement a national rural recruitment and hiring plan, in consultation with VA medical facility directors, to better recruit health care professionals, determine shortages, develop best practices for recruiting health care professionals, and train recruitment employees to utilize such best practice.

The section would require the provision of recruitment resources to the Veterans Integrated Services Networks and rural VA facilities.

This section would require VA to report to Congress annually on the Department’s assessment of the implementation of this section.

Section 902: Authority to buy out service contracts for certain health care professionals in exchange for employment at rural or highly rural facilities of Department of Veterans Affairs

– This section would authorize the Secretary to buy out non-VA employment contracts of physicians and certain other hard-to-hire health care professionals who have been offered employment with VA, in exchange for individuals agreeing to be employed at a rural or highly rural VA facility for a period of no less than four years.

This section would require an annual report to Congress regarding the use of the authority under this section.

Section 903: Qualifications for human resources positions within the Department of Veterans Affairs

- This section would require the Secretary to establish qualifications and performance metrics for each human resources position within the Department, to include establishing or enhancing its systems for monitoring hiring and other human resources actions.

This section would require GAO to report on the implementation of these metrics, and the Secretary to report a recruitment and retention plan for human resources employees.

Section 904: Modification of pay cap for certain employees of Veterans Health Administration

- This section would modify the pay cap from 30% to 50% in excess of basic pay rates for certain health care employees, which would allow VA to have more flexibility to compete with local markets and fill high-demand positions.

Section 905: Expansion of opportunities for housekeeping aides - This section would remove competitive service restrictions when hiring housekeeping aides, a critical and hard to hire position in VA medical facilities.

Section 906: Modification of authority of the Secretary of Veterans Affairs relating to hours, conditions of employment, and pay for certain employees of Veterans Health Administration

- This section would expand eligibility for certain performance awards and create a centralized awards program for superior accomplishments and performance awards.

This section would allow VA to streamline certain employee incentives for the retention of employees essential for implementation of the bill.

Section 907: Waiver of pay limitation for certain employees of Department of Veterans Affairs – This section would authorize the Secretary to waive pay limitations for employees of a duty station that is either closed or realigned. The same waiver authority would be allowed for employees providing expanded care to veterans exposed to open burn pits.

This section would require the Secretary to report, in each quarter in which these waivers are granted, to Congress and to the Office of Personnel Management.

Section 908: Elimination of limitation on awards and bonus for employees of Department of Veterans Affairs – This section would rescind the limitation awards and bonuses for certain VA employees as directed by the Veterans Access, Choice, and Accountability Act of 2014.

Section 909: Additional authority of the Secretary of Veterans Affairs relating to recruitment and retention of personnel – This section would authorize the Secretary to pay recruitment, relocation, and retention bonuses, as well as merit awards, without additional certification or approval.

This section would authorize the Secretary to provide incentives for critical skills, not to exceed 25% of base pay and upon an agreement from a defined period of employment.

This section would increase the limits on VA's student loan repayment programs and streamline the process to hire college graduates and post-secondary students.

This section would authorize the Secretary to fix the rate of pay for certain critical positions.