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**PROPOSED LEGISLATION TO AMEND THE RADIATION  
EXPOSURE AND COMPENSATION ACT**

**A BILL**

To amend the eligibility criteria of the Radiation Exposure  
Compensation Act and for other purposes.

*Be it enacted by the Senate and House of Representatives of the  
United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the “The Radiation Exposure Compensa-  
tion Act Amendments of 1997.”

**SEC. 2. The Radiation Exposure Compensation Act, 42 U.S.C.**

§ 2210 note (Supp. 1995), (referred to in this Act as “the Act”), is  
amended as follows:

(a) **CLAIMS RELATING TO ATMOSPHERIC NUCLEAR  
TESTING.**—(1) Section 4(a)(1) of the Act is amended to read as  
follows:

“(1) Claims relating to childhood leukemia - Any indi-  
vidual who -

“(A) was physically present in an affected area  
for a period of at least 1 year during the period  
beginning on January 21, 1951, and ending on  
October 31, 1958,

“(B) was physically present in the affected area for the period beginning on June 30, 1962, and ending on July 31, 1962, or

“(C) participated onsite in a test involving the atmospheric detonation of a nuclear device, and who submits written medical documentation that he or she, after such period of physical presence or such onsite participation (as the case may be), and between 2 and 30 years after first exposure to fallout, contracted leukemia (other than chronic lymphocytic leukemia), shall receive \$50,000 (in the case of an individual described in subparagraphs (A) or (B)) or \$75,000 (in the case of an individual described in subparagraph (C)), if -

“(i) initial exposure occurred prior to age 21,

“(ii) the claim for such payment is filed with the Attorney General by or on behalf of such individual, and

“(iii) the Attorney General determines, in accordance with section 6, that the claim meets the requirements of this Act.”

(2) Section 4(b)(2) of the Act is amended—

(i) by inserting “male or” before “female breast”; and

(ii) by striking “and low coffee consumption”; and

(iii) by inserting “salivary gland,” after “gall bladder.”

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(b) CLAIMS RELATING TO URANIUM MINING.— Section 5 of the Act is amended to read as follows:

“SEC. 5. CLAIMS RELATING TO URANIUM MINING.

“(a) Eligibility of Individuals for Full Compensation for Lung Cancer — Any individual who was employed in a uranium mine in a specified State at any time during the designated time period, shall receive \$100,000 if the individual submits written medical documentation that he or she contracted lung cancer, and

“(1) if a nonsmoker,

“(a) was exposed to 200 or more working level months of radon progeny; or

“(b) was exposed to at least the amount of radon progeny in working level months specified in Table 1-A, based on the individual’s age at disease incidence, and number of years since last exposure to radon progeny in the designated time period; or

“(c) was employed during the designated time period for at least the amount of time specified in Table 2-A, based on the individual’s age at disease incidence, year of first exposure to radon progeny during the designated time period, and number of years since last exposure to radon progeny during the designated time period; or

- “(2) if a smoker,
- “(a) was exposed to 300 or more working level months of radon progeny and cancer was contracted before age 45, or was exposed to 500 or more working level months of radon progeny, regardless of age when cancer was contracted; or
- “(b) was exposed to at least the amount of radon progeny in working level months specified in Table 1-B, based on the individual’s age at disease incidence, and number of years since last exposure to radon progeny during the designated time period, or
- “(c) was employed during the designated time period for at least the amount of time specified in Table 2-B, based on the individual’s age at disease incidence, year of first exposure to radon progeny during the designated time period, and number of years since last exposure to radon progeny during the designated time period.
- “(b) Eligibility of Individuals for Partial Compensation for Lung Cancer — Any individual who was employed in a uranium mine in a specified State at any time during the designated time period, shall receive \$50,000 if

the individual submits written medical documentation that he or she contracted lung cancer, and

“(1) if a nonsmoker, was exposed to at least the amount of radon progeny in working level months specified in Table 3-A, based on the individual’s age at disease incidence, and number of years since last exposure to radon progeny in the designated time period; or,

“(2) if a smoker, was exposed to at least the amount of radon progeny in working level months specified in Table 3-B, based on the individual’s age at disease incidence, and number of years since last exposure to radon progeny during the designated time period.

“(c) Eligibility for Full Compensation for Nonmalignant Respiratory Disease — Any individual who was employed in a uranium mine in a specified State at any time during the designated time period, shall receive \$100,000 if the individual submits written medical documentation that he or she, after such employment, contracted a nonmalignant respiratory disease, and

“(1) if a nonsmoker, was exposed to 200 or more working level months of radon progeny; or

“(2) if a smoker, was exposed to 300 or more working level months of radon progeny and the nonmalignant respiratory disease was contracted before age 45, or was exposed to 500 or more working level months of radon progeny, regardless of age the disease was contracted.

“(d) Any individual eligible for full or partial compensation under subsections (a), (b) or (c) shall receive payment if —

“(1) a claim for payment is filed with the Attorney General by or on behalf of such individual, and,

“(2) the Attorney General determines, in accordance with section 6, that the claim meets the requirements of this Act.

Payments under this section may be made only in accordance with section 6.

“(e) The tables referred to in subsections (a) and (b) are as follows:

TABLE 1-A  
Minimum Radiation Exposure Levels  
for Full Compensation for Lung Cancer  
(in Working Level Months)  
Nonsmokers

Age at disease incidence	Years since last radon progeny exposure		
	<10	10-19	≥20
<50	1	2	9
50-59	4	8	33
60-69	16	45	141
≥70	24	50	203

TABLE 1-B  
Minimum Radiation Exposure Levels  
for Full Compensation for Lung Cancer  
(in Working Level Months) Smokers

Age at disease incidence	Years since last radon progeny exposure		
	<10	10-19	≥20
<50	5	11	46
50-59	19	40	163
60-69	81	174	703
≥70	117	250	1,010

<p>TABLE 2-A                      Minimum Duration of Employment                      for Full Compensation For Lung Cancer                      (in Years)                      Nonsmokers</p>			
<p>Years since last radon progeny exposure</p>			
Age at disease incidence	<10	10-19	≥20
<i>First exposed: &lt;1955</i>			
<50	0.0 <sup>a</sup>	0.0	0.0
50-59	0.1	0.2	0.3
60-69	0.5	0.7	1.5
≥70	0.7	1.1	2.4
<i>First exposed: 1955-59</i>			
<50	0.0	0.0	0.0
50-59	0.1	0.2	0.3
60-69	0.6	0.9	1.9
≥70	0.9	1.4	3.0
<i>First exposed: ≥1960</i>			
<50	0.0	0.0	0.1
50-59	0.3	0.4	0.8
60-69	1.6	2.4	5.0
≥70	2.5	3.8	8.0

<sup>a</sup> A value of 0.0 years denotes employment in an underground uranium mine for at least 1 day but less than 18 days (.05 years or 102 working hours).



TABLE 2-B  
 Minimum Duration of Employment  
 For Full Compensation for Lung Cancer  
 (in Years)  
 Smokers

Years since last radon progeny exposure			
Age at disease incidence	<10	10-19	≥20
<i>First exposed: &lt;1955</i>			
<50	0.0 <sup>a</sup>	0.0	0.0
50-59	0.2	0.3	0.6
60-69	1.1	1.6	3.4
≥70	1.7	2.6	5.5
<i>First exposed: 1955-59</i>			
<50	0.0	0.0	0.1
50-59	0.2	0.4	0.7
60-69	1.4	2.1	4.3
≥70	2.2	3.3	7.0
<i>First exposed: ≥1960</i>			
<50	0.0	0.1	0.1
50-59	0.6	0.9	1.9
60-69	3.6	5.5	11.5
≥70	5.8	8.8	18.5

<sup>a</sup> A value of 0.0 years denotes employment in an underground uranium mine for at least 1 day but less than 18 days (.05 years or 102 working hours).

TABLE 3-A Minimum Radiation Exposure Levels For Partial Compensation For Lung Cancer (in Working Level Months) Nonsmokers			
Age at disease incidence	Years since last radon progeny exposure		
	<10	10-19	≥20
<50	0.4	0.7	3
50-59	1	3	12
60-69	5	16	50
≥70	9	18	72

TABLE 3-B Minimum Radiation Exposure Levels For Partial Compensation For Lung Cancer (in Working Level Months) Smokers			
Age at disease incidence	Years since last radon progeny exposure		
	<10	10-19	≥20
<50	2	4	16
50-59	7	14	57
60-69	29	61	248
≥70	41	88	356

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“(f) Definitions — For purposes of this section —

“(1) the term ‘working level month of radon progeny’ means exposure to radon progeny at the level of one working level every work day for a month, or an equivalent exposure over a greater or lesser amount of time;

“(2) the term ‘working level’ means the concentration of the short half-life daughters of radon that will release  $1.3 \times 10^5$  million electron volts of alpha energy per liter of air;

“(3) the term ‘nonmalignant respiratory disease’ means either pulmonary fibrosis, cor pulmonale related to pulmonary fibrosis, or moderate or severe silicosis, or pneumoconiosis;

“(4) the term ‘Indian tribe’ means any Indian tribe, band, nation, pueblo, or other organized group or community, that is recognized as eligible for special programs and services provided by the United States to Indian tribes because of their status as Indians.

“(5) the term ‘specified State’ means Arizona, Colorado, New Mexico, Utah, or Wyoming; and

“(6) the term ‘designated time period’ means the period beginning January 1, 1947 and ending on December 31, 1971.”

(c) DETERMINATION AND PAYMENT OF CLAIMS.

(1) Section 6(c)(2)(A)(ii) of the Act is amended by striking “5(a)” and inserting “5(f)(6)”.

(2) Section 6(c)(2)(B) of the Act is amended—

(A) in clause (I) by inserting “(other than a claim for workers compensation)” after “claim”; and

(B) in clause (ii) by striking “Federal Government” and inserting “Department of Veteran Affairs.”

(3) Section 6(d) of the Act is amended by inserting at the end the following:

“The Attorney General may request from any claimant, or from any individual or entity on behalf of any claimant, any additional information or documentation necessary to complete the determination on the claim in accordance with the procedures established under subsection (a). The period of time from the Attorney General’s request for additional information or documentation until the time such information or documentation is provided or the requested party informs the Attorney General the information or documentation cannot or will not be provided, is not counted toward the 12-month limit established in this subsection.”

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## SECTION-BY-SECTION ANALYSIS

Section (1). This section would state the short title of the bill.

Section (2). This section would amend sections 4, 5, and 6 of the Radiation Exposure Compensation Act of 1990, P.L. 101-426, 42 U.S.C. § 2210 note.

Subsection (a). This section would amend section 4 of the Act by expanding the eligibility criteria for downwinder and onsite participant claimants.

Subsection (1) would amend section 4(a)(1) of the Act by expanding the class of claimants eligible for compensation for childhood leukemia to include certain onsite participants. The amendment would add individuals who were exposed to radiation before the age of 21 while participating onsite in a test involving the atmospheric detonation of a nuclear device.

Subsection (2) would amend the list of compensable diseases in section 4(b) of the Act to account for the latest scientific findings regarding the effects of radiation exposure. The amendment would add two new diseases that have now been associated with exposure to radiation — primary cancers of the male breast and salivary gland — and eliminate the requirement that claimants seeking compensation for pancreatic cancer not have a history of heavy coffee drinking. The bill would limit compensation for salivary gland cancer to claimants who were not heavy smokers.

Subsection (b). This section would amend section 5 of the Act, defining the eligibility criteria for uranium miner claimants. This section would delete the present exposure-based eligibility criteria that apply to all uranium miner claimants — whether they are seeking compensation for lung cancer or a nonmalignant respiratory disease — and substitute in lieu thereof separate, and in the case of lung cancer, new eligibility criteria for each compensable disease. This section would further modify section 5 of the Act by adding provisions stating new eligibility criteria for partial compensation for lung cancer.

This section would amend section 5(a) of the Act by deleting the eligibility criteria for nonmalignant diseases, and adding to the existing exposure-based criteria for lung cancer two additional sets of criteria — one set also based on exposure to radiation, and a second set based on duration of employment — and allow claimants to qualify for full compensation (\$100,000) by meeting either the existing criteria or either of the two new alternative sets of criteria. These new sets of standards are the result of an effort by the Administration to generate new compensation criteria that more accurately reflect the risk of lung cancer from uranium mining, and thus better provide compensation to deserving claimants. The new criteria are based on the latest data and an updated analysis of the risk factors for lung cancer from uranium mining; they represent the best estimate of the level of radiation at

which the miner's exposure (measured either directly by working level months or indirectly by duration of employment) is the probable cause of his lung cancer. The set of criteria based on duration of employment are proposed because potential claimants are likely to find them easier to understand and use than exposure-based alternative criteria.

This section would also delete the existing subsection (b), which defines a number of terms used in section 5 of the Act, and substitute in lieu thereof a new set of eligibility criteria that would provide partial compensation (\$50,000) to a class of miner-claimants who are not qualified under the present criteria and who will not qualify under the newly proposed criteria for full compensation. The new criteria in section 5(b) are based on the same data and analysis as the newly-proposed criteria for full compensation, but, additionally, give the miner-claimants the benefit of known uncertainties in the underlying data. Thus, section 5(b), as amended, would newly enfranchise those miner-claimants whose exposure to radiation we can confidently say, giving them the benefit of known uncertainties in the underlying data, caused their lung cancers.

This section would, further, add a new subsection (c) that restates separately the present eligibility criteria for full compensation for nonmalignant respiratory diseases.

This section would also add a new subsection (d) that would restate the requirements presently found in section 5(a) of the Act that the compensation can be paid only when a claim is filed with the Attorney General, determined to meet the requirements of the Act, and payment can be made in accordance with the provisions of section 6 of the Act.

This section would add a new subsection (e) that would incorporate into the Act tables containing the new eligibility criteria for lung cancer, for both full and partial compensation. Table 1 contains the new, alternative exposure-based eligibility criteria for full compensation; Table 2 contains the new, alternative employment-based eligibility criteria for full compensation; and Table 3 contains the new exposure-based eligibility criteria for partial compensation.

Finally, this section would add a new subsection (f) that would restate the definitions presently found in section 5(b) of the Act, with some additions and modifications. The definition of the term "nonmalignant respiratory disease" in section 5(b)(3) of the existing Act would be modified by eliminating the redundant reference to pulmonary fibrosis in the list of compensable nonmalignant respiratory disorders, and by eliminating the limitation on compensation for silicosis and pneumoconiosis to uranium mines on Indian Reservations. This latter modification would ensure that miners employed in uranium mines off Indian Reservations (yet within one of the specified mining States) are compensated on the same conditions as miners employed in mines on Indian Reservations; the evidence suggests that the risk of silicosis due

to uranium mining was not restricted to mines on Indian Reservations. The proposed subsection (f) would also include definitions of two new terms — “specified States” and “designated time period” — employed in the proposed amendments to section 5.

Section (c). This section would amend the provisions of section 6(c)(2) of the Act defining the circumstances in which awards to onsite participants must be offset by payments received from other parties.

Subsection (1) would amend section 6(c)(2)(A)(ii) by substituting for the existing reference the new subsection where the designated time period within which a claimant must have been employed in a uranium mine is defined.

Subsection (2) would amend section 6(c)(2)(B)(I) to clarify that awards under the Act to on-site participants should not be offset by payments to the claimant based on a worker’s compensation claim for the same injuries. It would also amend section 6(c)(2)(B)(ii) to clarify that an award under the Act should be offset only by payments to the claimant from the Department of Veteran’s Affairs, and not by disability payments from other Federal agencies, such as Social Security. These amendments are designed to enhance parity among the eligible populations by ensuring that payments to onsite participants are offset on the same terms as payments to downwinders and uranium miners.

Subsection (3) would amend section 6(d) of the Act by adding explicit authorization for the Attorney General to seek and obtain from claimants, or from any individual or private or public entity on behalf of claimants, any documentation or information necessary to determine eligibility. This section also provides that the time period during which the Attorney General is awaiting the requested information shall not count toward the 12-month statutory limit on processing claims.

