

109TH CONGRESS  
1ST SESSION

# H. R. 4259

To establish the Veterans' Right to Know Commission.

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## IN THE HOUSE OF REPRESENTATIVES

NOVEMBER 8, 2005

Mr. THOMPSON of California (for himself, Mr. REHBERG, Mr. FILNER, Mr. PETERSON of Minnesota, Mr. MATHESON, Mr. VAN HOLLEN, Mr. McDERMOTT, Mr. HOLT, and Mr. STRICKLAND) introduced the following bill; which was referred to the Committee on Armed Services, and in addition to the Committee on Rules, 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

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## A BILL

To establish the Veterans' Right to Know Commission.

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 "Veterans' Right to  
5 Know Act".

6 **SEC. 2. ESTABLISHMENT.**

7 There is established a commission to be known as the  
8 "Veterans' Right to Know Commission" (in this Act re-  
9 ferred to as the "Commission").

1 **SEC. 3. DUTIES.**

2 (a) IN GENERAL.—The duties of the Commission  
3 shall be—

4 (1) to investigate chemical or biological warfare  
5 tests or projects, especially such projects carried out  
6 between 1954 and 1973, placing particular emphasis  
7 on actions or conditions associated with such  
8 projects that could have contributed to health risks  
9 or been harmful to any United States civilian per-  
10 sonnel or member of the United States Armed  
11 Forces who participated in such a project or who  
12 was otherwise potentially exposed to any biological  
13 or chemical agent, simulant, tracer, decontaminant,  
14 or herbicide as a result of such projects; and

15 (2) to submit a report to Congress of its find-  
16 ings and recommendations.

17 (b) MATTERS TO BE EXAMINED.—In carrying out  
18 this Act, the Commission shall specifically examine—

19 (1) classified and unclassified data, test oper-  
20 ation plans, safety plans, test reports, test results,  
21 and any other materials related to a chemical or bio-  
22 logical warfare test or project;

23 (2) the types and dosages of any biological or  
24 chemical agent, including any simulant, tracer,  
25 decontaminant, pharmaceutical, or herbicide, used

1 during each chemical or biological warfare test or  
2 project;

3 (3) information relating to the personal protec-  
4 tion of participants in each chemical or biological  
5 warfare test or project, including respiratory equip-  
6 ment, clothing, citadel systems, vaccinations, and  
7 safety and medical protocols;

8 (4) the list provided to the Department of Vet-  
9 erans Affairs by the Department of Defense of  
10 names of individuals who participated in each chem-  
11 ical or biological warfare test or project, the method  
12 by which such names were provided, and any other  
13 information relating to the number of individuals  
14 who participated in such a project or who were oth-  
15 erwise potentially exposed to any biological or chem-  
16 ical agent, simulant, tracer, decontaminant, pharma-  
17 ceutical, or herbicide as a result of such a project;

18 (5) the date and location of any land, air, or  
19 sea test conducted as part of any chemical or bio-  
20 logical warfare test or project and the dispersal area  
21 likely to have been affected by the release of a chem-  
22 ical or biological agent, simulant, tracer,  
23 decontaminant, pharmaceutical, or herbicide during  
24 the tests; and

1           (6) any available data collected during health  
2           screenings or cause of death determinations per-  
3           formed on any individual who participated in a  
4           chemical or biological warfare test or project to de-  
5           termine any possible health consequences of such  
6           participation.

7           (c) CHEMICAL OR BIOLOGICAL WARFARE TEST OR  
8           PROJECT.—In this Act, the term “chemical or biological  
9           warfare test or project” means any project or program  
10          carried out by the Department of Defense, including  
11          Project 112 and the Shipboard Hazard and Defense  
12          Project (Project SHAD), as a part of which any biological  
13          or chemical agent, simulant, tracer, decontaminant, phar-  
14          maceutical, or herbicide was tested or used.

15       **SEC. 4. MEMBERSHIP.**

16          (a) NUMBER AND APPOINTMENT.—The Commission  
17          shall be composed of 10 members as follows:

18               (1) 1 member appointed by the President, who  
19               shall serve as chair of the Commission.

20               (2) 1 member appointed jointly by the minority  
21               leader of the Senate and the minority leader of the  
22               House of Representatives, who shall serve as vice  
23               chair of the Commission.

24               (3) 2 members appointed by the majority leader  
25               of the Senate.

1           (4) 2 members appointed by the Speaker of the  
2 House of Representatives.

3           (5) 2 members appointed by the minority leader  
4 of the Senate.

5           (6) 2 members appointed by the minority leader  
6 of the House of Representatives.

7 (b) QUALIFICATIONS.—

8           (1) IN GENERAL.—Each individual appointed to  
9 the Commission shall be a prominent United States  
10 citizen with national recognition and significant ex-  
11 perience in areas related to the duties of the Com-  
12 mission.

13           (2) VETERAN APPOINTMENTS.—

14           (A) CHAIR AND VICE CHAIR.—The chair  
15 and vice chair of the Commission shall be vet-  
16 erans (as that term is defined in section 101 of  
17 title 38, United States Code).

18           (B) MEMBERS.—2 members of the Com-  
19 mission shall be veterans who participated in  
20 chemical or biological warfare test or project  
21 and who have knowledge of the tests conducted  
22 during such projects.

23           (3) OTHER APPOINTMENTS.—A member of the  
24 Commission shall not be an officer or employee of  
25 the Federal Government, any State government, or

1 any unit of local government. This paragraph shall  
2 not apply to appointments under paragraph (2).

3 (c) TERMS.—

4 (1) IN GENERAL.—Each member shall be ap-  
5 pointed for the life of the Commission.

6 (2) VACANCIES.—A vacancy in the Commission  
7 shall be filled in the manner in which the original  
8 appointment was made.

9 (d) TIME FOR APPOINTMENT.—Each member of the  
10 Commission shall be appointed before the expiration of the  
11 45-day period which begins on the date of the enactment  
12 of this Act.

13 (e) BASIC PAY.—Members shall be compensated at  
14 a rate not to exceed the daily equivalent of the annual  
15 rate of basic pay in effect for a position at level IV of  
16 the Executive Schedule under section 5315 of title 5,  
17 United States Code, for each day during which that mem-  
18 ber is engaged in the actual performance of the duties of  
19 the Commission.

20 (f) TRAVEL EXPENSES.—Each member shall receive  
21 travel expenses, including per diem in lieu of subsistence,  
22 in accordance with applicable provisions under subchapter  
23 I of chapter 57 of title 5, United States Code.

24 (g) CHAIR.—The chair shall serve as a full-time em-  
25 ployee of the United States.

1 (h) QUORUM.—6 members of the Commission shall  
2 constitute a quorum but a lesser number may hold hear-  
3 ings.

4 (i) MEETINGS.—

5 (1) INITIAL MEETING.—The Commission shall  
6 meet as soon as practicable after the date of the en-  
7 actment of this Act

8 (2) SUBSEQUENT MEETINGS.—After the initial  
9 meeting, the Commission shall meet at the call of  
10 the chair or a majority of its members but no fewer  
11 than four times each year.

12 **SEC. 5. DIRECTOR AND STAFF OF COMMISSION.**

13 (a) DIRECTOR.—The chair, in accordance with rules  
14 agreed upon by the Commission, may appoint and fix the  
15 compensation of a Director.

16 (b) STAFF.—The chair, in accordance with rules  
17 agreed upon by the Commission, may appoint and fix the  
18 compensation of any additional personnel as may be nec-  
19 essary to enable the Commission to carry out its functions.

20 (c) APPLICABILITY OF CERTAIN CIVIL SERVICE  
21 LAWS.—The Director and staff of the Commission may  
22 be appointed without regard to the provisions of title 5,  
23 United States Code, governing appointments in the com-  
24 petitive service, and may be paid without regard to the  
25 provisions of chapter 51 and subchapter III of chapter 53

1 of that title relating to classification and General Schedule  
2 pay rates, except that any individual so appointed may not  
3 receive pay in excess of the annual rate of basic pay for  
4 level V of the Executive Schedule under section 5316 of  
5 title 5, United States Code.

6 (d) EXPERTS AND CONSULTANTS.—The Commission  
7 may procure temporary and intermittent services under  
8 section 3109(b) of title 5, United States Code, but at rates  
9 not to exceed the daily equivalent of the maximum annual  
10 rate of basic pay for level IV of the Executive Schedule  
11 under section 5315 of title 5, United States Code.

12 (e) STAFF OF FEDERAL AGENCIES.—Upon request  
13 of the Commission, the head of any Federal department  
14 or agency may detail, without reimbursement, any of the  
15 personnel of that department or agency to the Commission  
16 to assist it in carrying out its duties under this Act.

17 **SEC. 6. POWERS OF THE COMMISSION.**

18 (a) HEARINGS AND SESSIONS.—The Commission  
19 may, for the purpose of carrying out this Act, hold hear-  
20 ings, sit and act at times and places, take testimony, and  
21 receive evidence as the Commission considers appropriate.  
22 The Commission may administer oaths or affirmations to  
23 witnesses appearing before it.

24 (b) PUBLIC MEETINGS, HEARINGS, AND REPORTS.—

1           (1) NONAPPLICABILITY OF THE FEDERAL ADVI-  
2           SORY COMMITTEE ACT.—Section 10(a) of the Fed-  
3           eral Advisory Committee Act (5 U.S.C. App.) shall  
4           not apply to the Commission.

5           (2) PUBLIC MEETINGS AND RELEASE OF PUB-  
6           LIC VERSIONS OF REPORTS.—The Commission  
7           shall—

8                   (A) hold public hearings and meetings to  
9                   the extent appropriate; and

10                   (B) release public versions of the reports  
11                   submitted under section 7.

12           (3) PUBLIC HEARINGS.—A public hearing of  
13           the Commission shall be conducted in a manner con-  
14           sistent with the protection of information provided  
15           to or developed for or by the Commission as re-  
16           quired by any applicable statute, regulation, or Ex-  
17           ecutive order.

18           (c) POWERS OF MEMBERS AND AGENTS.—Any mem-  
19           ber or agent of the Commission may, if authorized by the  
20           Commission, take any action which the Commission is au-  
21           thorized to take by this section.

22           (d) OBTAINING OFFICIAL DATA.—

23                   (1) IN GENERAL.—The Commission may secure  
24                   directly from any department or agency of the  
25                   United States information necessary to enable it to

1 carry out this Act, including rosters of personnel  
2 who participated in any chemical or biological war-  
3 fare test or project. Upon request of the chair, the  
4 head of that department or agency shall furnish that  
5 information to the Commission.

6 (2) PARTICIPANT INFORMATION.—

7 (A) Before the expiration of the 45-day pe-  
8 riod which begins on the date of the enactment  
9 of this Act, the head of a department or agency  
10 of the United States which is in possession of  
11 any participant information described in sub-  
12 paragraph (B) shall furnish such information to  
13 the Commission.

14 (B) The participant information referred  
15 to in subparagraph (A) is the name, service  
16 number, social security number, and birth date  
17 of each individual who participated in a chem-  
18 ical or biological warfare test or project and the  
19 date and location of any such project in which  
20 the individual participated.

21 (e) SECURITY CLEARANCES.—

22 (1) CHAIR AND VICE CHAIR.—The chair and  
23 vice chair of the Commission shall hold, as a condi-  
24 tion of appointment to or employment with the Com-  
25 mission, appropriate security clearances for access to

1 the classified briefing, records, and materials to be  
2 reviewed by the Commission or its staff and shall  
3 follow the guidance and practices on security under  
4 applicable Executive orders and agency directives.

5 (2) CERTAIN STAFF.—Not fewer than one-third  
6 of the staff of the Commission shall hold, as a condi-  
7 tion of appointment to or employment with the Com-  
8 mission, appropriate security clearances for access to  
9 the classified briefing, records, and materials to be  
10 reviewed by the Commission or its staff and shall  
11 follow the guidance and practices on security under  
12 applicable Executive orders and agency directives.

13 (3) MEMBERS AND STAFF.—

14 (A) IN GENERAL.—Subject to paragraph  
15 (2), the appropriate Federal agencies or depart-  
16 ments shall cooperate with the Commission in  
17 expeditiously providing to the Commission  
18 members and staff appropriate security clear-  
19 ances to the extent possible pursuant to existing  
20 procedures and requirements.

21 (B) EXCEPTION.—No person shall be pro-  
22 vided with access to classified information  
23 under this Act without the appropriate required  
24 security clearance access.

1 (f) GIFTS, BEQUESTS, AND DEVISES.—The Commis-  
2 sion may accept, use, and dispose of gifts, bequests, or  
3 devises of services or property, both real and personal, for  
4 the purpose of aiding or facilitating the work of the Com-  
5 mission. Gifts, bequests, or devises of money and proceeds  
6 from the sales of other property received as gifts, bequests,  
7 or devises shall be deposited in the Treasury and shall be  
8 available for disbursement upon the order of the Commis-  
9 sion.

10 (g) MAILS.—The Commission may use the United  
11 States mails in the same manner and under the same con-  
12 ditions as other departments and agencies of the United  
13 States.

14 (h) ADMINISTRATIVE SUPPORT SERVICES.—Upon  
15 the request of the Commission, the Administrator of Gen-  
16 eral Services shall provide to the Commission, on a reim-  
17 bursable basis, the administrative support services nec-  
18 essary for the Commission to carry out its responsibilities  
19 under this Act.

20 (i) SUBPOENA POWER.—

21 (1) IN GENERAL.—The Commission may issue  
22 subpoenas requiring the attendance and testimony of  
23 witnesses and the production of any evidence relat-  
24 ing to any matter under investigation by the Com-  
25 mission. The attendance of witnesses and the pro-

1       duction of evidence may be required from any place  
2       within the United States at any designated place of  
3       hearing within the United States.

4               (2) ISSUANCE OF SUBPOENAS.—

5               (A) IN GENERAL.—A subpoena may be  
6       issued under this subsection only—

7                       (i) by the agreement of the chair and  
8                       vice chair; or

9                       (ii) by the affirmative vote of 4 mem-  
10       bers of the Commission.

11               (B) SIGNATURE AND SERVICE.—Subject to  
12       subparagraph (A), a subpoena issued under this  
13       subsection may be issued under the signature of  
14       the chair or any member designated by a ma-  
15       jority vote of the Commission and may be  
16       served by any person designated by the chair or  
17       by any person designated by a member des-  
18       ignated by a majority vote of the Commission.

19               (3) FAILURE TO OBEY A SUBPOENA.—If a per-  
20       son refuses to obey a subpoena issued under para-  
21       graph (1), the Commission may apply to a United  
22       States district court for an order requiring that per-  
23       son to appear before the Commission to give testi-  
24       mony, produce evidence, or both, relating to the  
25       matter under investigation. The application may be

1       made within the judicial district where the hearing  
2       is conducted or where that person is found, resides,  
3       or transacts business. Any failure to obey the order  
4       of the court may be punished by the court as civil  
5       contempt.

6       (j) **CONTRACT AUTHORITY.**—To the extent or in the  
7       amounts provided in advance in appropriation Acts, the  
8       Commission may contract with and compensate govern-  
9       ment and private agencies or persons for services if enter-  
10      ing into such contracts would enable the Commission to  
11      discharge its duties.

12      **SEC. 7. REPORTS.**

13      (a) **INTERIM REPORTS.**—The Commission may sub-  
14      mit to Congress, the Committees on Armed Services and  
15      Veterans' Affairs of the Senate and House of Representa-  
16      tives, the Congressional intelligence committees, and the  
17      President, interim reports containing such findings, con-  
18      clusions, and recommendations for corrective measures as  
19      have been agreed to by a majority of Commission mem-  
20      bers.

21      (b) **FINAL REPORT.**—The Commission shall transmit  
22      a final report to Congress, the Committees on Armed  
23      Services and Veterans' Affairs of the Senate and House  
24      of Representatives, the Congressional intelligence commit-  
25      tees, and the President, not later than 36 months from

1 the date of the initial meeting of the Commission. The  
2 final report shall contain a detailed statement of the find-  
3 ings and conclusions of the Commission, together with its  
4 recommendations for any actions the Commission con-  
5 siders appropriate.

6 (c) FORM OF REPORT.—Each report submitted  
7 under this section shall be unclassified but may contain  
8 a classified annex.

9 (d) RECOMMENDATION TO MAKE PUBLIC CERTAIN  
10 CLASSIFIED INFORMATION.—

11 (1) IN GENERAL.—If the Commission deter-  
12 mines that it is in the public interest that some or  
13 all of the information contained in a classified annex  
14 of a report under this section be made available to  
15 the public, the Commission shall make a rec-  
16 ommendation to the Congressional intelligence com-  
17 mittees to make such information public, and the  
18 Congressional intelligence committees shall consider  
19 the recommendation pursuant to the procedures  
20 under paragraph (2).

21 (2) PROCEDURE FOR DECLASSIFYING INFORMA-  
22 TION.—The procedures referred to in paragraph (1)  
23 are the procedures described—

24 (A) with respect to the Permanent Select  
25 Committee on Intelligence of the House of Rep-

1           representatives, in clause 11(g) of Rule x of the  
2           Rules of the House of Representatives, One  
3           Hundred Eighth Congress; and

4                   (B) with respect to the Select Committee  
5           on Intelligence of the Senate, in section 8 of  
6           Senate Resolution 400, Ninety-Fourth Con-  
7           gress.

8           (e) CONGRESSIONAL INTELLIGENCE COMMITTEES.—  
9           In this subsection, the term “Congressional intelligence  
10          committees” means—

11                   (1) the Permanent Select Committee on Intel-  
12          ligence of the House of Representatives; and

13                   (2) the Select Committee on Intelligence of the  
14          Senate.

15   **SEC. 8. TERMINATION.**

16           (a) IN GENERAL.—The Commission shall terminate  
17          upon the expiration of the 60-day period which begins on  
18          the date the Commission submits its final report under  
19          section 7(b).

20           (b) ADMINISTRATIVE ACTIVITIES.—The Commission  
21          may use the 60-day period described in subsection (a) to  
22          conclude its activities, which may include providing testi-  
23          mony to committees of Congress concerning its findings,  
24          conclusions, and recommendations.

1 **SEC. 9. AUTHORIZATION OF APPROPRIATIONS.**

2       There is authorized to be appropriated \$5,000,000 to  
3 carry out this Act, which shall remain available until the  
4 termination of the Commission.

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