

116TH CONGRESS  
1ST SESSION

# H. R. 663

To direct the Secretary of Defense to include in periodic health assessments, separation history and physical examinations, and other assessments an evaluation of whether a member of the Armed Forces has been exposed to open burn pits or toxic airborne chemicals, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

JANUARY 17, 2019

Ms. GABBARD (for herself, Mr. MAST, Mr. BACON, Mr. BANKS, Mrs. BEATTY, Mr. BERGMAN, Mr. BYRNE, Mr. CÁRDENAS, Ms. CLARKE of New York, Mr. RODNEY DAVIS of Illinois, Mrs. DAVIS of California, Mr. DEFazio, Ms. DELAURO, Mrs. DEMINGS, Mr. DEUTCH, Mrs. DINGELL, Mr. ENGEL, Mr. ESPAILLAT, Mr. FITZPATRICK, Mr. FLEISCHMANN, Mr. FORTENBERRY, Mr. FOSTER, Mr. GAETZ, Mr. GARAMENDI, Mr. GIANFORTE, Mr. GONZALEZ of Texas, Miss GONZÁLEZ-COLÓN of Puerto Rico, Mr. GREEN of Texas, Mr. GRIFFITH, Mr. HARDER of California, Mrs. HARTZLER, Mr. HASTINGS, Mrs. HAYES, Mr. HOLDING, Mr. JOHNSON of Georgia, Mr. JONES, Ms. KAPTUR, Mr. KATKO, Mr. KHANNA, Mr. KILMER, Mr. KIND, Mr. KING of Iowa, Ms. KUSTER of New Hampshire, Mr. LANGEVIN, Mr. LAMBORN, Mrs. LEE of Nevada, Mrs. LOWEY, Mrs. LURIA, Mrs. CAROLYN B. MALONEY of New York, Mr. MARINO, Ms. MATSUI, Ms. MCCOLLUM, Mr. MCGOVERN, Mr. MEEKS, Ms. MOORE, Mr. MOULTON, Mrs. NAPOLITANO, Mr. NORMAN, Ms. NORTON, Mr. PANNETTA, Mr. PAYNE, Ms. PINGREE, Mr. POCAN, Mrs. RADEWAGEN, Mr. ROSE of New York, Ms. ROYBAL-ALLARD, Mr. RYAN, Mr. RUTHERFORD, Mr. SABLAN, Mr. SCHRADER, Mr. SENSENBRENNER, Mr. SHERMAN, Mr. SMITH of Missouri, Mr. SOTO, Mr. TIPTON, Mrs. TORRES of California, Mr. VELA, Ms. VELÁZQUEZ, Mrs. WALORSKI, Mr. WELCH, Ms. WILSON of Florida, Mr. RUSH, Ms. LOFGREN, Mr. COLLINS of New York, Mr. COHEN, Mr. BISHOP of Georgia, and Mr. GREEN of Tennessee) introduced the following bill; which was referred to the Committee on Armed Services, and in addition to the Committee on Veterans' Affairs, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

# A BILL

To direct the Secretary of Defense to include in periodic health assessments, separation history and physical examinations, and other assessments an evaluation of whether a member of the Armed Forces has been exposed to open burn pits or toxic airborne chemicals, 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 “Burn Pits Account-

5 ability Act”.

6 **SEC. 2. EXPOSURE TO OPEN BURN PITS AND TOXIC AIR-**  
7 **BORNE CHEMICALS AS PART OF PERIODIC**  
8 **HEALTH ASSESSMENTS AND OTHER PHYS-**  
9 **ICAL EXAMINATIONS.**

10       (a) PERIODIC HEALTH ASSESSMENT.—The Sec-

11 retary of Defense shall ensure that any periodic health as-

12 sessment provided to members of the Armed Forces in-

13 cludes an evaluation of whether the member has been—

14           (1) based or stationed at a location where an

15 open burn pit was used; or

16           (2) exposed to toxic airborne chemicals, includ-

17 ing any information recorded as part of the Airborne

18 Hazards and Open Burn Pit Registry.

1 (b) SEPARATION HISTORY AND PHYSICAL EXAMINA-  
2 TIONS.—Section 1145(a)(5) of title 10, United States  
3 Code, is amended by adding at the end the following new  
4 subparagraph:

5 “(C) The Secretary concerned shall ensure that each  
6 physical examination of a member under subparagraph  
7 (A) includes an assessment of whether the member was—

8 (i) based or stationed at a location where an  
9 open burn pit, as defined in subsection (c) of section  
10 201 of the Dignified Burial and Other Veterans’  
11 Benefits Improvement Act of 2012 (Public Law  
12 112–260; 38 U.S.C. 527 note), was used; or

13 (ii) exposed to toxic airborne chemicals, in-  
14 cluding any information recorded as part of the reg-  
15 istry established by the Secretary of Veterans Af-  
16 fairs under such section 201.”.

17 (c) DEPLOYMENT ASSESSMENTS.—Section  
18 1074f(b)(2) of title 10, United States Code, is amended  
19 by adding at the end the following new subparagraph:

20 “(D) An assessment of whether the member  
21 was—

22 (i) based or stationed at a location where  
23 an open burn pit, as defined in subsection (c)  
24 of section 201 of the Dignified Burial and  
25 Other Veterans’ Benefits Improvement Act of

1           2012 (Public Law 112–260; 38 U.S.C. 527  
2           note), was used; or

3           “(ii) exposed to toxic airborne chemicals,  
4           including any information recorded as part of  
5           the registry established by the Secretary of Vet-  
6           erans Affairs under such section 201.”.

7           (d) SHARING OF INFORMATION.—

8           (1) DOD–VA.—The Secretary of Defense and  
9           the Secretary of Veterans Affairs shall jointly enter  
10          into a memorandum of understanding providing for  
11          the sharing by the Department of Defense with the  
12          Department of Veterans Affairs of the results of  
13          covered evaluations regarding the exposure by a  
14          member of the Armed Forces to toxic airborne  
15          chemicals.

16          (2) REGISTRY.—If a covered evaluation of a  
17          member of the Armed Forces establishes that the  
18          member was based or stationed at a location where  
19          an open burn pit was used, or the member was ex-  
20          posed to toxic airborne chemicals, the member shall  
21          be enrolled in the Airborne Hazards and Open Burn  
22          Pit Registry, unless the member elects to not so en-  
23          roll.

24          (e) RULE OF CONSTRUCTION.—Nothing in this sec-  
25          tion may be construed to preclude eligibility for benefits

1 under the laws administered by the Secretary of Veterans  
2 Affairs by reason of the open burn pit exposure history  
3 of a veteran not being recorded in a covered evaluation.

4 (f) DEFINITIONS.—In this section:

5 (1) The term “Airborne Hazards and Open  
6 Burn Pit Registry” means the registry established  
7 by the Secretary of Veterans Affairs under section  
8 201 of the Dignified Burial and Other Veterans’  
9 Benefits Improvement Act of 2012 (Public Law  
10 112–260; 38 U.S.C. 527 note).

11 (2) The term “covered evaluation” means—

12 (A) a periodic health assessment conducted  
13 in accordance with subsection (a);

14 (B) a separation history and physical ex-  
15 amination conducted under section 1145(a)(5)  
16 of title 10, United States Code, as amended by  
17 this section; and

18 (C) a deployment assessment conducted  
19 under section 1074f(b)(2) of such title, as  
20 amended by this section.

21 (3) The term “open burn pit” has the meaning  
22 given that term in section 201(c) of the Dignified  
23 Burial and Other Veterans’ Benefits Improvement

1 Act of 2012 (Public Law 112–260; 38 U.S.C. 527  
2 note).

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