

THE NAVAJO NATION  
LEGISLATIVE BRANCH  
INTERNET PUBLIC REVIEW PUBLICATION



LEGISLATION NO: \_0211-22\_

SPONSOR: Kee Allen Begay, Jr.

**TITLE: An Action Relating to the Resources and Development Committee, and Naabik'iyáti' Committee; Supporting United States Senate Bill S. 2825 Titled "Downwinders Act"**

**Date posted: November 02, 2022 at 8:51PM**

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**LEGISLATIVE SUMMARY SHEET**

Tracking No. 0211-22

**DATE:** October 31, 2022

**TITLE OF RESOLUTION:** PROPOSED STANDING COMMITTEE RESOLUTION; **22-180-1:** AN ACTION RELATING TO SUPPORTING UNITED STATES SENATE BILL S. 2825 TITLED “DOWNWINDERS ACT”

**PURPOSE:** The purpose of this legislation to support S. 2825 titled “Downwinders Act” and to advocate the Navajo Nation’s support of an amendment the Downwinders Act to expand the “affected area” definition to include the following:

“All land within the exterior boundaries of the Navajo Indian Reservation or of the Eastern Navajo Agency, all land within the limits of dependent Navajo Indian communities, all Navajo Indian allotments, all land owned in fee by the Navajo Nation, and all other land held in trust for, owned in fee by, or leased by the United States to the Navajo Nation.”

**This written summary does not address recommended amendments as may be provided by the standing committees. The Office of Legislative Counsel requests each Council Delegate to review each proposed resolution in detail.**

5-DAY BILL HOLD PERIOD: Johnson  
Website Posting Time/Date: \_\_\_\_\_  
Posting End Date: 11-06-22  
Eligible for Action: 11-07-22

Resources & Development Committee  
Thence  
Naabik'iyáti' Committee

1 PROPOSED STANDING COMMITTEE RESOLUTION  
2 24<sup>th</sup> NAVAJO NATION COUNCIL—Fourth Year, 2022  
3 INTRODUCED BY

4  
5  
6 Primary Sponsor 

7  
8 TRACKING NO. 0211-22

9  
10 AN ACTION  
11 RELATING TO THE RESOURCES AND DEVELOPMENT COMMITTEE,  
12 AND NAABIK'ÍYÁTI' COMMITTEE; SUPPORTING UNITED STATES  
13 SENATE BILL S. 2825 TITLED "DOWNWINDERS ACT"

14  
15 **WHEREAS:**

- 16 A. The Navajo Nation established the Naabik'iyáti' Committee as a Navajo Nation  
17 Council standing committee and as such empowered the Naabik'iyáti' Committee to  
18 coordinate all requests for information, appearances and testimony relating to proposed  
19 county, state and federal legislation impacting the Navajo Nation. *See* 2 N.N.C. §§ 700  
20 (A), 701 (A)(6).
- 21 B. The Navajo Nation established the Resources and Development Committee as a  
22 standing committee of the Navajo Nation Council. 2. N.N.C. § 500(A). The Committee  
23 lobbies the federal government and their agencies relating to environmental protection.  
24 2 N.N.C. § 501(B)(1) and (6)(a).
- 25 C. The Navajo Nation has a government-to-government relationship with the United  
26 States of America, Treaty of 1868, Aug. 12, 1868, 15 Stat. 667.
- 27 D. On September 23, 2021, Utah Senator Mick Lee introduced to the 117<sup>th</sup> Congress S.  
28 2825 titled the "Downwinders Act." *See* S. 2825 attached hereto as **Exhibit A**.
- 29  
30

1 E. Senator Lee introduced the Downwinders Act “[t]o amend the Radiation Exposure  
2 Compensation Act to revise the definition of “affected area” and extend the period in  
3 which compensation may be provided, and other purposes.”

4 F. The Navajo Nation supports S. 2825 for the following reasons:

5 1. The Act would expand the “affected area” definition to include the entire state  
6 of Utah and the following counties in New Mexico: Bernalillo, Chaves,  
7 Guadalupe, Lincoln Sandoval, San Miguel, Santa Fe, Socorro, Torrance, and  
8 Valencia.

9 2. The Act extends the period of compensation by ten (10) years following the  
10 date of enactment.

11 G. For the reasons stated above, the Navajo Nation finds it in the best interest of the Navajo  
12 People to support passage of S. 2825 titled “Downwinders Act”.

13  
14 **THEREFORE, BE IT RESOLVED:**

15 A. The Navajo Nation hereby supports S. 2825 titled “Downwinders Act” attached hereto  
16 as **Exhibit A**.

17 B. The Navajo Nation hereby authorizes the Speaker of the Navajo Nation Council,  
18 President of the Navajo Nation, and their designees, to advocate the Navajo Nation’s  
19 support of the Downwinders Act.

20 C. The Navajo Nation hereby authorizes the Speaker of the Navajo Nation Council,  
21 President of the Navajo Nation, and their designees, to advocate the Navajo Nation’s  
22 support of an amendment the Downwinders Act to expand the “affected area”  
23 definition to include the following:

24 “All land within the exterior boundaries of the Navajo Indian  
25 Reservation or of the Eastern Navajo Agency, all land within the  
26 limits of dependent Navajo Indian communities, all Navajo Indian  
27 allotments, all land owned in fee by the Navajo Nation, and all other  
28 land held in trust for, owned in fee by, or leased by the United States  
29 to the Navajo Nation.”  
30



117TH CONGRESS  
1ST SESSION

# S. 2825

To amend the Radiation Exposure Compensation Act to revise the definition of “affected area” and extend the period in which compensation may be provided, and for other purposes.

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IN THE SENATE OF THE UNITED STATES

SEPTEMBER 23, 2021

Mr. LEE introduced the following bill; which was read twice and referred to the Committee on Commerce, Science, and Transportation

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## A BILL

To amend the Radiation Exposure Compensation Act to revise the definition of “affected area” and extend the period in which compensation may be provided, 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 “Downwinders Act”.

1 **SEC. 2. AMENDMENTS TO THE RADIATION EXPOSURE COM-**  
2 **PENSATION ACT.**

3 (a) **AFFECTED AREAS.**—Section 4 of the Radiation  
4 Exposure Compensation Act (42 U.S.C. 2210 note; Public  
5 Law 101-426) is amended—

6 (1) in subsection (a)—

7 (A) in paragraph (1)—

8 (i) in subparagraph (A)—

9 (I) in clause (i)—

10 (aa) in subclause (II), by  
11 striking “; or” and inserting a  
12 semicolon;

13 (bb) by redesignating sub-  
14 clause (III) as subclause (IV);  
15 and

16 (cc) by inserting after sub-  
17 clause (II) the following:

18 “(III) was physically present in  
19 the affected area described in sub-  
20 section (b)(1)(D) for the period begin-  
21 ning on July 16, 1945, and ending on  
22 August 16, 1945; or”; and

23 (II) in clause (ii)(I), by striking  
24 “physical presence described in sub-  
25 clause (I) or (II) of clause (i) or on-  
26 site participation described in clause

1 (i)(III)” and inserting “physical pres-  
2 ence described in subclause (I), (II),  
3 or (III) of clause (i) or onsite partici-  
4 pation described in clause (i)(IV)”;  
5 and

6 (ii) in subparagraph (B)—

7 (I) in clause (i), by striking “sub-  
8 clause (I) or (II) of subparagraph  
9 (A)(i)” and inserting “subclause (I),  
10 (II), or (III) of subparagraph (A)(i)”;  
11 and

12 (II) in clause (ii), by striking  
13 “subclause (III)” and inserting “sub-  
14 clause (IV)”;

15 (B) in paragraph (2)—

16 (i) in subparagraph (B), by striking “,  
17 or” and inserting a comma;

18 (ii) by redesignating subparagraph  
19 (C) as subparagraph (D);

20 (iii) by inserting after subparagraph  
21 (B) the following:

22 “(C) was physically present in the affected  
23 area described in subsection (b)(1)(D) for the  
24 period beginning on July 16, 1945, and ending  
25 on August 16, 1945, or”;

1 (iv) in the matter following subpara-  
 2 graph (D), as so redesignated, by striking  
 3 “subparagraph (A) or (B)” and all that  
 4 follows through “subparagraph (C)” and  
 5 inserting “subparagraph (A), (B), or (C))  
 6 or \$75,000 (in the case of an individual  
 7 described in subparagraph (D))”; and

8 (2) in subsection (b)(1)—

9 (A) in subparagraph (A), by striking “in  
 10 the State” and all that follows through “Piute”  
 11 and inserting “the State of Utah”;

12 (B) in subparagraph (B), by striking “;  
 13 and” and inserting a semicolon; and

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

15 “(D) with respect to a claim by an indi-  
 16 vidual under subsection (a)(1)(A)(i)(III) or sub-  
 17 section (a)(2)(C), only the counties of  
 18 Bernalillo, Chaves, Guadalupe, Lincoln,  
 19 Sandoval, San Miguel, Santa Fe, Socorro, Tor-  
 20 rance, and Valencia in the State of New Mex-  
 21 ico; and”.

22 (b) EXTENSION OF PERIOD OF COMPENSATION.—

23 (1) TERMINATION OF FUND.—Section 3(d) of  
 24 the Radiation Exposure Compensation Act (42

1 U.S.C. 2210 note; Public Law 101-426) is amend-  
2 ed—

3 (A) in the first sentence, by striking “22”  
4 and all that follows through “2000” and insert-  
5 ing “on the date that is 10 years after the date  
6 of enactment of the Downwinders Act”; and

7 (B) in the second sentence, by striking “by  
8 the end of that 22-year period” and inserting  
9 “by such date of termination”.

10 (2) ELIGIBILITY.—Section 8(a) of the Radi-  
11 ation Exposure Compensation Act (42 U.S.C. 2210  
12 note; Public Law 101-426) is amended by striking  
13 “22” and all that follows through “2000” and in-  
14 serting “10 years after the date of enactment of the  
15 Downwinders Act”.

16 (e) CONFORMING AMENDMENTS.—Section 6 of the  
17 Radiation Exposure Compensation Act (42 U.S.C. 2210  
18 note; Public Law 101-426) is amended—

19 (1) in subsection (b)(2)(C), by striking “section  
20 4(a)(2)(C)” and inserting “section 4(a)(2)(D)”;

21 (2) in subsection (c)(2)—

22 (A) in subparagraph (A)—

23 (i) in the matter preceding clause (i),  
24 by striking “subsection (a)(1), (a)(2)(A),  
25 or (a)(2)(B) of section 4” and inserting

1 “subsection (a)(1), (a)(2)(A), (a)(2)(B), or  
2 (a)(2)(C) of section 4”; and

3 (ii) in clause (i), by striking “sub-  
4 section (a)(1), (a)(2)(A), or (a)(2)(B) of  
5 section 4” and inserting “subsection  
6 (a)(1), (a)(2)(A), (a)(2)(B), or (a)(2)(C) of  
7 section 4”; and

8 (B) in subparagraph (B), by striking “sec-  
9 tion 4(a)(2)(C)” and inserting “section  
10 4(a)(2)(D)”; and

11 (3) in subsection (e), by striking “subsection  
12 (a)(1), (a)(2)(A), or (a)(2)(B) of section 4” and in-  
13 serting “subsection (a)(1), (a)(2)(A), (a)(2)(B), or  
14 (a)(2)(C) of section 4”.

15 **SEC. 3. STUDY ON COUNTIES AFFECTED BY RADIATION**  
16 **FALL-OUT DUE TO OPEN AIR NUCLEAR TEST-**  
17 **ING CONDUCTED IN NEVADA AND NEW MEX-**  
18 **ICO.**

19 Not later than 1 year after the date of enactment  
20 of this Act, the Secretary of Health and Human Services,  
21 in consultation with the Secretary of Energy, shall conduct  
22 a research study and report to Congress on which counties  
23 were affected by radiation fall-out due to open air nuclear  
24 testing conducted in Nevada and New Mexico, as identi-  
25 fied using evidence-based analysis.

1 **SEC. 4. SPECTRUM AUCTION.**

2 (a) IDENTIFICATION OF SPECTRUM TO BE AUC-  
3 TIONED.—Not later than 1 year after the date of enact-  
4 ment of this Act, the Assistant Secretary of Commerce  
5 for Communications and Information, in consultation with  
6 the Federal Communications Commission and the Direc-  
7 tor of the Office of Science and Technology Policy, shall  
8 identify 100 megahertz of electromagnetic spectrum that  
9 is assigned or allocated to the Federal Government to be  
10 made available for non-Federal commercial licensed use  
11 through an auction under subsection (b).

12 (b) AUCTION.—Not later than 18 months after the  
13 date of enactment of this Act, the Federal Communica-  
14 tions Commission shall conduct a system of competitive  
15 bidding under section 309(j) of the Communications Act  
16 of 1934 (47 U.S.C. 309(j)) to grant new licenses for the  
17 spectrum identified under subsection (a).

18 (c) AUCTION PROCEEDS TO COVER 110 PERCENT OF  
19 FEDERAL RELOCATION OR SHARING COSTS.—Nothing in  
20 this section shall be construed to relieve the Federal Com-  
21 munications Commission from the requirements under  
22 section 309(j)(16)(B) of the Communications Act of 1934  
23 (47 U.S.C. 309(j)(16)(B)).

24 (d) DEPOSIT OF AUCTION PROCEEDS IN RADIATION  
25 EXPOSURE COMPENSATION TRUST FUND.—Section

1 309(j)(8) of the Communications Act of 1934 (47 U.S.C.

2 309(j)(8)) is amended—

3 (1) in subparagraph (A), by striking “and (G)”  
4 and inserting “(G), and (H)”;

5 (2) in subparagraph (C)(i), by striking “and  
6 (G)” and inserting “(G), and (H)”;

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

8 “(H) USE OF AUCTION PROCEEDS FOR RA-  
9 DIATION EXPOSURE COMPENSATION.—Notwith-  
10 standing subparagraph (A), and except as pro-  
11 vided in subparagraph (B), of the proceeds (in-  
12 cluding deposits and upfront payments from  
13 successful bidders) from the use of a system of  
14 competitive bidding under this subsection pur-  
15 suant to section 4 of the Downwinders Act, the  
16 Commission shall deposit not less than  
17 \$2,500,000,000 and not more than  
18 \$5,000,000,000 in the Radiation Exposure  
19 Compensation Trust Fund established under  
20 section 3(a) of the Radiation Exposure Com-  
21 pensation Act (42 U.S.C. 2210 note; Public  
22 Law 101-426), to be used for disbursement by  
23 the Attorney General under section 6 of such  
24 Act.”.

○



## MEMORANDUM

TO: Honorable Kee Allen Begay, Jr.  
Tachee/Blue Gap, Many Farms, Nazlini, Tselani/Cottonwood, Low Mountain  
Chapters

FROM: Mariana Kahn  
Mariana Kahn, Attorney  
Office of Legislative Counsel

DATE: October 31, 2022

SUBJECT: **22-180-1: AN ACTION RELATING TO SUPPORTING UNITED STATES  
SENATE BILL S. 2825 TITLED "DOWNWINDERS ACT"**

As requested, I prepared the above-referenced proposed resolution pursuant to your request for legislative drafting. Based on existing law and review of documents submitted, the resolution as drafted is legally sufficient. As with any action of government, however, it can be subject to review by the courts in the event of proper challenge.

The Office of Legislative Council confirms the appropriate standing committee(s) reviews based on the standing committees' powers outlined in 2 N.N.C. §§ 301, 401, 501, 601 and 701. Nevertheless, "the Speaker of the Navajo Nation Council shall introduce [the proposed resolution] into the legislative process by assigning it to the respective oversight committee(s) of the Navajo Nation Council having authority over the matters for proper consideration." 2 N.N.C. § 164(A)(5).

Please ensure this resolution request is precisely what you want. You are encouraged to review the proposed resolution to ensure that it is drafted to your satisfaction. If the proposed resolution is unacceptable to you, please contact me at the Office of Legislative Counsel and advise me of the changes you would like made to the proposed resolution.