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4 **SEC. 3601. SHORT TITLE.**

5 This title may be cited as the "Energy Employees Occupa-
6 tional Illness Compensation Program Act of 2000".

1 **SEC. 3602. FINDINGS; SENSE OF CONGRESS.**

2 (a) FINDINGS.—The Congress finds the following:

3 (1) Since World War II, Federal nuclear activities
4 have been explicitly recognized under Federal law as activi-
5 ties that are ultra-hazardous. Nuclear weapons production
6 and testing have involved unique dangers, including poten-
7 tial catastrophic nuclear accidents that private insurance
8 carriers have not covered and recurring exposures to radio-
9 active substances and beryllium that, even in small
10 amounts, can cause medical harm.

11 (2) Since the inception of the nuclear weapons pro-
12 gram and for several decades afterwards, a large number
13 of nuclear weapons workers at sites of the Department of
14 Energy and at sites of vendors who supplied the Cold War
15 effort were put at risk without their knowledge and consent
16 for reasons that, documents reveal, were driven by fears of
17 adverse publicity, liability, and employee demands for haz-
18 ardous duty pay.

19 (3) Many previously secret records have documented
20 unmonitored exposures to radiation and beryllium and con-
21 tinuing problems at these sites across the Nation, at which
22 the Department of Energy and its predecessor agencies
23 have been, since World War II, self-regulating with respect
24 to nuclear safety and occupational safety and health. No
25 other hazardous Federal activity has been permitted to be
26 carried out under such sweeping powers of self-regulation.

27 (4) The policy of the Department of Energy has been
28 to litigate occupational illness claims, which has deterred
29 workers from filing workers' compensation claims and has
30 imposed major financial burdens for such employees who
31 have sought compensation. Contractors of the Department
32 have been held harmless and the employees have been de-
33 nied workers' compensation coverage for occupational dis-
34 ease.

35 (5) Over the past 20 years, more than two dozen sci-
36 entific findings have emerged that indicate that certain of
37 such employees are experiencing increased risks of dying

1 from cancer and non-malignant diseases. Several of these
2 studies have also established a correlation between excess
3 diseases and exposure to radiation and beryllium.

4 (6) While linking exposure to occupational hazards
5 with the development of occupational disease is sometimes
6 difficult, scientific evidence supports the conclusion that oc-
7 cupational exposure to dust particles or vapor of beryllium
8 can cause beryllium sensitivity and chronic beryllium dis-
9 ease. Furthermore, studies indicate than 98 percent of ra-
10 diation-induced cancers within the nuclear weapons com-
11 plex have occurred at dose levels below existing maximum
12 safe thresholds.

13 (7) Existing information indicates that State workers'
14 compensation programs do not provide a uniform means of
15 ensuring adequate compensation for the types of occupa-
16 tional illnesses and diseases that relate to the employees at
17 those sites.

18 (8) To ensure fairness and equity, the civilian men
19 and women who, over the past 50 years, have performed
20 duties uniquely related to the nuclear weapons production
21 and testing programs of the Department of Energy and its
22 predecessor agencies should have efficient, uniform, and
23 adequate compensation for beryllium-related health condi-
24 tions and radiation-related health conditions.

25 (9) On April 12, 2000, the Secretary of Energy an-
26 nounced that the Administration intended to seek com-
27 pensation for individuals with a broad range of work-re-
28 lated illnesses throughout the Department of Energy's nu-
29 clear weapons complex.

30 (10) However, as of October 2, 2000, the Administra-
31 tion has failed to provide Congress with the necessary legis-
32 lative and budget proposals to enact the promised com-
33 pensation program.

34 (b) SENSE OF CONGRESS.—It is the sense of Congress
35 that—

36 (1) a program should be established to provide com-
37 pensation to covered employees;

1 (2) a fund for payment of such compensation should
2 be established on the books of the Treasury;

3 (3) payments from that fund should be made only
4 after—

5 (A) the identification of employees of the Depart-
6 ment of Energy (including its predecessor agencies),
7 and of contractors of the Department, who may be
8 members of the group of covered employees;

9 (B) the establishment of a process to receive and
10 administer claims for compensation for disability or
11 death of covered employees;

12 (C) the submittal by the President of a legislative
13 proposal for compensation of such employees that in-
14 cludes the estimated annual budget resources for that
15 compensation; and

16 (D) consideration by the Congress of the legisla-
17 tive proposal submitted by the President; and

18 (4) payments from that fund should commence not
19 later than fiscal year 2002.

20 **Subtitle A—Establishment of Com-**
21 **penetration Program and Compensa-**
22 **tion Fund**

23 **SEC. 3611. ESTABLISHMENT OF ENERGY EMPLOYEES**
24 **OCCUPATIONAL ILLNESS COMPENSATION**
25 **PROGRAM.**

26 (a) PROGRAM ESTABLISHED.—There is hereby established
27 a program to be known as the “Energy Employees Occupa-
28 tional Illness Compensation Program” (in this title referred to
29 as the “compensation program”). The President shall carry out
30 the compensation program through one or more Federal agen-
31 cies or officials, as designated by the President.

32 (b) PURPOSE OF PROGRAM.—The purpose of the com-
33 pensation program is to provide for timely, uniform, and ade-
34 quate compensation of covered employees and, where applica-
35 ble, survivors of such employees, suffering from illnesses in-
36 curred by such employees in the performance of duty for the

1 Department of Energy and certain of its contractors and sub-
2 contractors.

3 (c) ELIGIBILITY FOR COMPENSATION.—The eligibility of
4 covered employees for compensation under the compensation
5 program shall be determined in accordance with the provisions
6 of subtitle B as may be modified by a law enacted after the
7 date of the submittal of the proposal for legislation required by
8 section 3613.

9 **SEC. 3612. ESTABLISHMENT OF ENERGY EMPLOYEES**
10 **OCCUPATIONAL ILLNESS COMPENSATION**
11 **FUND.**

12 (a) ESTABLISHMENT.—There is hereby established on the
13 books of the Treasury a fund to be known as the “Energy Em-
14 ployees Occupational Illness Compensation Fund” (in this title
15 referred to as the “compensation fund”).

16 (b) AMOUNTS IN COMPENSATION FUND.—The compensa-
17 tion fund shall consist of the following amounts:

18 (1) Amounts appropriated to the compensation fund
19 pursuant to the authorization of appropriations in section
20 3614(b).

21 (2) Amounts transferred to the compensation fund
22 under subsection (c).

23 (c) FINANCING OF COMPENSATION FUND.—Upon the ex-
24 haustion of amounts in the compensation fund attributable to
25 the authorization of appropriations in section 3614(b), the Sec-
26 retary of the Treasury shall transfer directly to the compensa-
27 tion fund from the General Fund of the Treasury, without fur-
28 ther appropriation, such amounts as are further necessary to
29 carry out the compensation program.

30 (d) USE OF COMPENSATION FUND.—Subject to subsection
31 (e), amounts in the compensation fund shall be used to carry
32 out the compensation program.

33 (e) ADMINISTRATIVE COSTS NOT PAID FROM COMPENSA-
34 TION FUND.—No cost incurred in carrying out the compensa-
35 tion program, or in administering the compensation fund, shall
36 be paid from the compensation fund or set off against or other-

1 wise deducted from any payment to any individual under the
2 compensation program.

3 (f) INVESTMENT OF AMOUNTS IN THE FUND.—Amounts
4 in the compensation fund shall be invested in accordance with
5 section 9702 of title 31, United States Code, and any interest
6 on, and proceeds from, any such investment shall be credited
7 to and become a part of the compensation fund.

8 **SEC. 3613. LEGISLATIVE PROPOSAL.**

9 (a) LEGISLATIVE PROPOSAL REQUIRED.—Not later than
10 March 15, 2001, the President shall submit to Congress a pro-
11 posal for legislation to implement the compensation program.
12 The proposal for legislation shall include, at a minimum, the
13 specific recommendations (including draft legislation) of the
14 President for the following:

15 (1) The types of compensation and benefits, including
16 lost wages, medical benefits, and any lump-sum settlement
17 payments, to be provided under the compensation program.

18 (2) Any adjustments or modifications necessary to ap-
19 propriately administer the compensation program under
20 subtitle B.

21 (3) Whether to expand the compensation program to
22 include other illnesses associated with exposure to toxic
23 substances.

24 (4) Whether to expand the class of individuals who are
25 members of the Special Exposure Cohort (as defined in sec-
26 tion 3621(14)).

27 (b) ASSESSMENT OF POTENTIAL COVERED EMPLOYEES
28 AND REQUIRED AMOUNTS.—The President shall include with
29 the proposal for legislation under subsection (a) the following:

30 (1) An estimate of the number of covered employees
31 that the President determines were exposed in the perform-
32 ance of duty.

33 (2) An estimate, for each fiscal year of the compensa-
34 tion program, of the amounts to be required for compensa-
35 tion and benefits anticipated to be provided in such fiscal
36 year under the compensation program.

1 **SEC. 3614. AUTHORIZATION OF APPROPRIATIONS.**

2 (a) IN GENERAL.—Pursuant to the authorization of ap-
3 propriations in section 3103(a), \$25,000,000 may be used for
4 purposes of carrying out this title.

5 (b) COMPENSATION FUND.—There is hereby authorized to
6 be appropriated \$250,000,000 to the Energy Employees Occu-
7 pational Illness Compensation Fund established by section
8 3612.

9 **Subtitle B—Program Administration**

10 **SEC. 3621. DEFINITIONS FOR PROGRAM ADMINISTRATION.**
11

12 In this title:

13 (1) The term “covered employee” means any of the
14 following:

15 (A) A covered beryllium employee.

16 (B) A covered employee with cancer.

17 (C) To the extent provided in section 3627, a cov-
18 ered employee with chronic silicosis (as defined in that
19 section).

20 (2) The term “atomic weapon” has the meaning given
21 that term in section 11 d. of the Atomic Energy Act of
22 1954 (42 U.S.C. 2014(d)).

23 (3) The term “atomic weapons employee” means an
24 individual employed by an atomic weapons employer during
25 a period when the employer was processing or producing,
26 for the use by the United States, material that emitted ra-
27 diation and was used in the production of an atomic weap-
28 on, excluding uranium mining and milling.

29 (4) The term “atomic weapons employer” means an
30 entity, other than the United States, that—

31 (A) processed or produced, for use by the United
32 States, material that emitted radiation and was used in
33 the production of an atomic weapon, excluding uranium
34 mining and milling; and

35 (B) is designated by the Secretary of Energy as an
36 atomic weapons employer for purposes of the com-
37 pensation program.

1 (5) The term "atomic weapons employer facility"
2 means a facility, owned by an atomic weapons employer,
3 that is or was used to process or produce, for use by the
4 United States, material that emitted radiation and was
5 used in the production of an atomic weapon, excluding ura-
6 nium mining or milling.

7 (6) The term "beryllium vendor" means any of the fol-
8 lowing:

9 (A) Atomics International.

10 (B) Brush Wellman, Incorporated, and its prede-
11 cessor, Brush Beryllium Company.

12 (C) General Atomics.

13 (D) General Electric Company.

14 (E) NGK Metals Corporation and its predecessors,
15 Kawecki-Beryleo, Cabot Corporation, BerylCo, and Be-
16 ryllium Corporation of America.

17 (F) Nuclear Materials and Equipment Corpora-
18 tion.

19 (G) StarMet Corporation and its predecessor, Nu-
20 clear Metals, Incorporated.

21 (H) Wyman Gordan, Incorporated.

22 (I) Any other vendor, processor, or producer of be-
23 ryllium or related products designated as a beryllium
24 vendor for purposes of the compensation program
25 under section 3622.

26 (7) The term "covered beryllium employee" means the
27 following, if and only if the employee is determined to have
28 been exposed to beryllium in the performance of duty in ac-
29 cordance with section 3623(a):

30 (A) A current or former employee (as that term is
31 defined in section 8101(1) of title 5, United States
32 Code) who may have been exposed to beryllium at a
33 Department of Energy facility or at a facility owned,
34 operated, or occupied by a beryllium vendor.

35 (B) A current or former employee of—

36 (i) any entity that contracted with the Depart-
37 ment of Energy to provide management and oper-

1 ation, management and integration, or environ-
2 mental remediation of a Department of Energy fa-
3 cility; or

4 (ii) any contractor or subcontractor that pro-
5 vided services, including construction and mainte-
6 nance, at such a facility.

7 (C) A current or former employee of a beryllium
8 vendor, or of a contractor or subcontractor of a beryl-
9 lium vendor, during a period when the vendor was en-
10 gaged in activities related to the production or pro-
11 cessing of beryllium for sale to, or use by, the Depart-
12 ment of Energy.

13 (8) The term "covered beryllium illness" means any of
14 the following:

15 (A) Beryllium sensitivity as established by an ab-
16 normal beryllium lymphocyte proliferation test per-
17 formed on either blood or lung lavage cells.

18 (B) Established chronic beryllium disease.

19 (C) Any injury, illness, impairment, or disability
20 sustained as a consequence of a covered beryllium ill-
21 ness referred to in subparagraph (A) or (B).

22 (9) The term "covered employee with cancer" means
23 any of the following:

24 (A) An individual with a specified cancer who is
25 a member of the Special Exposure Cohort, if and only
26 if that individual contracted that specified cancer after
27 beginning employment at a Department of Energy fa-
28 cility (in the case of a Department of Energy employee
29 or Department of Energy contractor employee) or at an
30 atomic weapons employer facility (in the case of an
31 atomic weapons employee).

32 (B)(i) An individual with cancer specified in sub-
33 clause (I), (II), or (III) of clause (ii), if and only if that
34 individual is determined to have sustained that cancer
35 in the performance of duty in accordance with section
36 3623(b).

37 (ii) Clause (i) applies to any of the following:

1 (I) A Department of Energy employee who
2 contracted that cancer after beginning employment
3 at a Department of Energy facility.

4 (II) A Department of Energy contractor em-
5 ployee who contracted that cancer after beginning
6 employment at a Department of Energy facility.

7 (III) An atomic weapons employee who con-
8 tracted that cancer after beginning employment at
9 an atomic weapons employer facility.

10 (10) The term "Department of Energy" includes the
11 predecessor agencies of the Department of Energy, includ-
12 ing the Manhattan Engineering District.

13 (11) The term "Department of Energy contractor em-
14 ployee" means any of the following:

15 (A) An individual who is or was in residence at a
16 Department of Energy facility as a researcher for one
17 or more periods aggregating at least 24 months.

18 (B) An individual who is or was employed at a De-
19 partment of Energy facility by—

20 (i) an entity that contracted with the Depart-
21 ment of Energy to provide management and oper-
22 ating, management and integration, or environ-
23 mental remediation at the facility; or

24 (ii) a contractor or subcontractor that pro-
25 vided services, including construction and mainte-
26 nance, at the facility.

27 (12) The term "Department of Energy facility" means
28 any building, structure, or premise, including the grounds
29 upon which such building, structure, or premise is
30 located—

31 (A) in which operations are, or have been, con-
32 ducted by, or on behalf of, the Department of Energy
33 (except for buildings, structures, premises, grounds, or
34 operations covered by Executive Order No. 12344,
35 dated February 1, 1982 (42 U.S.C. 7158 note), per-
36 taining to the Naval Nuclear Propulsion Program); and

1 (B) with regard to which the Department of En-
2 ergy has or had—

3 (i) a proprietary interest; or

4 (ii) entered into a contract with an entity to
5 provide management and operation, management
6 and integration, environmental remediation serv-
7 ices, construction, or maintenance services.

8 (13) The term “established chronic beryllium disease”
9 means chronic beryllium disease as established by the fol-
10 lowing:

11 (A) For diagnoses on or after January 1, 1993,
12 beryllium sensitivity (as established in accordance with
13 paragraph (8)(A)), together with lung pathology con-
14 sistent with chronic beryllium disease, including—

15 (i) a lung biopsy showing granulomas or a
16 lymphocytic process consistent with chronic beryl-
17 lium disease;

18 (ii) a computerized axial tomography scan
19 showing changes consistent with chronic beryllium
20 disease; or

21 (iii) pulmonary function or exercise testing
22 showing pulmonary deficits consistent with chronic
23 beryllium disease.

24 (B) For diagnoses before January 1, 1993, the
25 presence of—

26 (i) occupational or environmental history, or
27 epidemiologic evidence of beryllium exposure; and

28 (ii) any three of the following criteria:

29 (I) Characteristic chest radiographic (or
30 computed tomography (CT)) abnormalities.

31 (II) Restrictive or obstructive lung physi-
32 ology testing or diffusing lung capacity defect.

33 (III) Lung pathology consistent with
34 chronic beryllium disease.

35 (IV) Clinical course consistent with a
36 chronic respiratory disorder.

1 (V) Immunologic tests showing beryllium
2 sensitivity (skin patch test or beryllium blood
3 test preferred).

4 (14) The term "member of the Special Exposure Co-
5 hort" means a Department of Energy employee, Depart-
6 ment of Energy contractor employee, or atomic weapons
7 employee who meets any of the following requirements:

8 (A) The employee was so employed for a number
9 of work days aggregating at least 250 work days before
10 February 1, 1992, at a gaseous diffusion plant located
11 in Paducah, Kentucky, Portsmouth, Ohio, or Oak
12 Ridge, Tennessee, and, during such employment—

13 (i) was monitored through the use of dosim-
14 etry badges for exposure at the plant of the exter-
15 nal parts of employee's body to radiation; or

16 (ii) worked in a job that had exposures com-
17 parable to a job that is or was monitored through
18 the use of dosimetry badges.

19 (B) The employee was so employed before January
20 1, 1974, by the Department of Energy or a Depart-
21 ment of Energy contractor or subcontractor on Am-
22 chitka Island, Alaska, and was exposed to ionizing radi-
23 ation in the performance of duty related to the Long
24 Shot, Milrow, or Cannikin underground nuclear tests.

25 (C)(i) Subject to clause (ii), the employee is an in-
26 dividual designated as a member of the Special Expo-
27 sure Cohort by the President for purposes of the com-
28 pensation program under section 3626.

29 (ii) A designation under clause (i) shall, unless
30 Congress otherwise provides, take effect on the date
31 that is 180 days after the date on which the President
32 submits to Congress a report identifying the individuals
33 covered by the designation and describing the criteria
34 used in designating those individuals.

35 (15) The term "occupational illness" means a covered
36 beryllium illness, cancer referred to in section 3621(9)(B),
37 specified cancer, or chronic silicosis, as the case may be.

1 (16) The term "radiation" means ionizing radiation in
2 the form of—

- 3 (A) alpha particles;
4 (B) beta particles;
5 (C) neutrons;
6 (D) gamma rays; or
7 (E) accelerated ions or subatomic particles from
8 accelerator machines.

9 (17) The term "specified cancer" means any of the
10 following:

- 11 (A) A specified disease, as that term is defined in
12 section 4(b)(2) of the Radiation Exposure Compensa-
13 tion Act (42 U.S.C. 2210 note).
14 (B) Bone cancer.

15 (18) The term "survivor" means any individual or in-
16 dividuals eligible to receive compensation pursuant to sec-
17 tion 8133 of title 5, United States Code.

18 **SEC. 3622. EXPANSION OF LIST OF BERYLLIUM VEN-**
19 **DORS.**

20 Not later than December 31, 2002, the President may, in
21 consultation with the Secretary of Energy, designate as a beryl-
22 lium vendor for purposes of section 3621(6) any vendor, proe-
23 sessor, or producer of beryllium or related products not pre-
24 viously listed under or designated for purposes of such section
25 3621(6) if the President finds that such vendor, processor, or
26 producer has been engaged in activities related to the produc-
27 tion or processing of beryllium for sale to, or use by, the De-
28 partment of Energy in a manner similar to the entities listed
29 in such section 3621(6).

30 **SEC. 3623. EXPOSURE IN THE PERFORMANCE OF DUTY.**

31 (a) BERYLLIUM.—A covered beryllium employee shall, in
32 the absence of substantial evidence to the contrary, be deter-
33 mined to have been exposed to beryllium in the performance of
34 duty for the purposes of the compensation program if, and only
35 if, the covered beryllium employee was—

- 36 (1) employed at a Department of Energy facility; or

1 (2) present at a Department of Energy facility, or a
2 facility owned and operated by a beryllium vendor, because
3 of employment by the United States, a beryllium vendor, or
4 a contractor or subcontractor of the Department of Energy;
5 during a period when beryllium dust, particles, or vapor may
6 have been present at such facility.

7 (b) CANCER.—An individual with cancer specified in sub-
8 clause (I), (II), or (III) of section 3621(9)(B)(ii) shall be deter-
9 mined to have sustained that cancer in the performance of duty
10 for purposes of the compensation program if, and only if, the
11 cancer specified in that subclause was at least as likely as not
12 related to employment at the facility specified in that sub-
13 clause, as determined in accordance with the guidelines estab-
14 lished under subsection (c).

15 (c) GUIDELINES.—(1) For purposes of the compensation
16 program, the President shall by regulation establish guidelines
17 for making the determinations required by subsection (b).

18 (2) The President shall establish such guidelines after
19 technical review by the Advisory Board on Radiation and
20 Worker Health under section 3624.

21 (3) Such guidelines shall—

22 (A) be based on the radiation dose received by the em-
23 ployee (or a group of employees performing similar work)
24 at such facility and the upper 99 percent confidence inter-
25 val of the probability of causation in the
26 radioepidemiological tables published under section 7(b) of
27 the Orphan Drug Act (42 U.S.C. 241 note), as such tables
28 may be updated under section 7(b)(3) of such Act from
29 time to time;

30 (B) incorporate the methods established under sub-
31 section (d); and

32 (C) take into consideration the type of cancer, past
33 health-related activities (such as smoking), information on
34 the risk of developing a radiation-related cancer from work-
35 place exposure, and other relevant factors.

36 (d) METHODS FOR RADIATION DOSE RECONSTRUC-
37 TIONS.—(1) The President shall, through any Federal agency

1 (other than the Department of Energy) or official (other than
2 the Secretary of Energy or any other official within the Depart-
3 ment of Energy) that the President may designate, establish by
4 regulation methods for arriving at reasonable estimates of the
5 radiation doses received by an individual specified in subpara-
6 graph (B) of section 3621(9) at a facility specified in that sub-
7 paragraph by each of the following employees:

8 (A) An employee who was not monitored for exposure
9 to radiation at such facility.

10 (B) An employee who was monitored inadequately for
11 exposure to radiation at such facility.

12 (C) An employee whose records of exposure to radi-
13 ation at such facility are missing or incomplete.

14 (2) The President shall establish an independent review
15 process using the Advisory Board on Radiation and Worker
16 Health to—

17 (A) assess the methods established under paragraph
18 (1); and

19 (B) verify a reasonable sample of the doses established
20 under paragraph (1).

21 (e) INFORMATION ON RADIATION DOSES.—(1) The Sec-
22 retary of Energy shall provide, to each covered employee with
23 cancer specified in section 3621(9)(B), information specifying
24 the estimated radiation dose of that employee during each em-
25 ployment specified in section 3621(9)(B), whether established
26 by a dosimetry reading, by a method established under sub-
27 section (d), or by both a dosimetry reading and such method.

28 (2) The Secretary of Health and Human Services and the
29 Secretary of Energy shall each make available to researchers
30 and the general public information on the assumptions, meth-
31 odology, and data used in establishing radiation doses under
32 subsection (d). The actions taken under this paragraph shall be
33 consistent with the protection of private medical records.

34 **SEC. 3624. ADVISORY BOARD ON RADIATION AND WORK-**
35 **ER HEALTH.**

36 (a) ESTABLISHMENT.—(1) Not later than 120 days after
37 the date of the enactment of this Act, the President shall estab-

1 lish and appoint an Advisory Board on Radiation and Worker
2 Health (in this section referred to as the "Board").

3 (2) The President shall make appointments to the Board
4 in consultation with organizations with expertise on worker
5 health issues in order to ensure that the membership of the
6 Board reflects a balance of scientific, medical, and worker per-
7 spectives.

8 (3) The President shall designate a Chair for the Board
9 from among its members.

10 (b) DUTIES.—The Board shall advise the President on—

11 (1) the development of guidelines under section
12 3623(c);

13 (2) the scientific validity and quality of dose esti-
14 mation and reconstruction efforts being performed for pur-
15 poses of the compensation program; and

16 (3) such other matters related to radiation and worker
17 health in Department of Energy facilities as the President
18 considers appropriate.

19 (c) STAFF.—(1) The President shall appoint a staff to fa-
20 cilitate the work of the Board. The staff shall be headed by a
21 Director who shall be appointed under subchapter VIII of chap-
22 ter 33 of title 5, United States Code.

23 (2) The President may accept as staff of the Board per-
24 sonnel on detail from other Federal agencies. The detail of per-
25 sonnel under this paragraph may be on a nonreimbursable
26 basis.

27 (d) EXPENSES.—Members of the Board, other than full-
28 time employees of the United States, while attending meetings
29 of the Board or while otherwise serving at the request of the
30 President, while serving away from their homes or regular
31 places of business, shall be allowed travel and meal expenses,
32 including per diem in lieu of subsistence, as authorized by sec-
33 tion 5703 of title 5, United States Code, for individuals in the
34 Government serving without pay.

1 **SEC. 3625. RESPONSIBILITIES OF SECRETARY OF**
2 **HEALTH AND HUMAN SERVICES.**

3 The Secretary of Health and Human Services shall carry
4 out that Secretary's responsibilities with respect to the com-
5 pensation program with the assistance of the Director of the
6 National Institute for Occupational Safety and Health.

7 **SEC. 3626. DESIGNATION OF ADDITIONAL MEMBERS OF**
8 **SPECIAL EXPOSURE COHORT.**

9 (a) **ADVICE ON ADDITIONAL MEMBERS.**—(1) The Advi-
10 sory Board on Radiation and Worker Health under section
11 3624 shall advise the President whether there is a class of em-
12 ployees at any Department of Energy facility who likely were
13 exposed to radiation at that facility but for whom it is not fea-
14 sible to estimate with sufficient accuracy the radiation dose
15 they received.

16 (2) The advice of the Advisory Board on Radiation and
17 Worker Health under paragraph (1) shall be based on exposure
18 assessments by radiation health professionals, information pro-
19 vided by the Department of Energy, and such other informa-
20 tion as the Advisory Board considers appropriate.

21 (3) The President shall request advice under paragraph
22 (1) after consideration of petitions by classes of employees de-
23 scribed in that paragraph for such advice. The President shall
24 consider such petitions pursuant to procedures established by
25 the President.

26 (b) **DESIGNATION OF ADDITIONAL MEMBERS.**—Subject to
27 the provisions of section 3621(14)(C), the members of a class
28 of employees at a Department of Energy facility may be treat-
29 ed as members of the Special Exposure Cohort for purposes of
30 the compensation program if the President, upon recommenda-
31 tion of the Advisory Board on Radiation and Worker Health,
32 determines that—

33 (1) it is not feasible to estimate with sufficient accu-
34 racy the radiation dose that the class received; and

35 (2) there is a reasonable likelihood that such radiation
36 dose may have endangered the health of members of the
37 class.

1 ACCESS TO INFORMATION.—The Secretary of Energy shall
2 provide, in accordance with law, the Secretary of Health and
3 Human Services and the members and staff of the Advisory
4 Board on Radiation and Worker Health access to relevant in-
5 formation on worker exposures, including access to Restricted
6 Data (as defined in section 11 y. of the Atomic Energy Act of
7 1954 (42 U.S.C. 2014(y)).

8 **SEC. 3627. SEPARATE TREATMENT OF CHRONIC SILI-**
9 **COSIS.**

10 (a) SENSE OF CONGRESS.—The Congress finds that em-
11 ployees who worked in Department of Energy test sites and
12 later contracted chronic silicosis should also be considered for
13 inclusion in the compensation program. Recognizing that
14 chronic silicosis resulting from exposure to silica is not a condi-
15 tion unique to the nuclear weapons industry, it is not the intent
16 of Congress with this title to establish a precedent on the ques-
17 tion of chronic silicosis as a compensable occupational disease.
18 Consequently, it is the sense of Congress that a further deter-
19 mination by the President is appropriate before these workers
20 are included in the compensation program.

21 (b) CERTIFICATION BY PRESIDENT.—A covered employee
22 with chronic silicosis shall be treated as a covered employee (as
23 defined in section 3621(1)) for the purposes of the compensa-
24 tion program required by section 3611 unless the President
25 submits to Congress not later than 180 days after the date of
26 the enactment of this Act the certification of the President that
27 there is insufficient basis to include such employees. The Presi-
28 dent shall submit with the certification any recommendations
29 about the compensation program with respect to covered em-
30 ployees with chronic silicosis as the President considers appro-
31 priate.

32 (c) EXPOSURE TO SILICA IN THE PERFORMANCE OF
33 DUTY.—A covered employee shall, in the absence of substantial
34 evidence to the contrary, be determined to have been exposed
35 to silica in the performance of duty for the purposes of the
36 compensation program if, and only if, the employee was present
37 for a number of work days aggregating at least 250 work days

1 during the mining of tunnels at a Department of Energy facil-
2 ity located in Nevada or Alaska for tests or experiments related
3 to an atomic weapon.

4 (d) COVERED EMPLOYEE WITH CHRONIC SILICOSIS.—For
5 purposes of this title, the term “covered employee with chronic
6 silicosis” means a Department of Energy employee, or a De-
7 partment of Energy contractor employee, with chronic silicosis
8 who was exposed to silica in the performance of duty as deter-
9 mined under subsection (c).

10 (e) CHRONIC SILICOSIS.—For purposes of this title, the
11 term “chronic silicosis” means a non-malignant lung disease
12 if—

13 (1) the initial occupational exposure to silica dust pre-
14 ceded the onset of silicosis by at least 10 years; and

15 (2) a written diagnosis of silicosis is made by a med-
16 ical doctor and is accompanied by—

17 (A) a chest radiograph, interpreted by an indi-
18 vidual certified by the National Institute for Occupa-
19 tional Safety and Health as a B reader, classifying the
20 existence of pneumoconioses of category 1/1 or higher;

21 (B) results from a computer assisted tomograph or
22 other imaging technique that are consistent with sili-
23 cosis; or

24 (C) lung biopsy findings consistent with silicosis.

25 **SEC. 3628. COMPENSATION AND BENEFITS TO BE PRO-**
26 **VIDED.**

27 (a) COMPENSATION PROVIDED.—(1) Except as provided in
28 paragraph (2), a covered employee, or the survivor of that cov-
29 ered employee if the employee is deceased, shall receive com-
30 pensation for the disability or death of that employee from that
31 employee’s occupational illness in the amount of \$150,000.

32 (2) A covered employee shall, to the extent that employee’s
33 occupational illness is established beryllium sensitivity, receive
34 beryllium sensitivity monitoring under subsection (c) in lieu of
35 compensation under paragraph (1).

1 (b) MEDICAL BENEFITS.—A covered employee shall re-
2 ceive medical benefits under section 3629 for that employee's
3 occupational illness.

4 (c) BERYLLIUM SENSITIVITY MONITORING.—An individual
5 receiving beryllium sensitivity monitoring under this subsection
6 shall receive the following:

7 (1) A thorough medical examination to confirm the
8 nature and extent of the individual's established beryllium
9 sensitivity.

10 (2) Regular medical examinations thereafter to deter-
11 mine whether that individual has developed established
12 chronic beryllium disease.

13 (d) PAYMENT FROM COMPENSATION FUND.—The com-
14 pensation provided under this section, when authorized or ap-
15 proved by the President, shall be paid from the compensation
16 fund established under section 3612.

17 (e) SURVIVORS.—(1) Subject to the provisions of this sec-
18 tion, if a covered employee dies before the effective date speci-
19 fied in subsection (f), whether or not the death is a result of
20 that employee's occupational illness, a survivor of that employee
21 may, on behalf of that survivor and any other survivors of that
22 employee, receive the compensation provided for under this sec-
23 tion.

24 (2) The right to receive compensation under this section
25 shall be afforded to survivors in the same order of precedence
26 as that set forth in section 8109 of title 5, United States Code.

27 (f) EFFECTIVE DATE.—This section shall take effect on
28 July 31, 2001, unless Congress otherwise provides in an Act
29 enacted before that date.

30 **SEC. 3629. MEDICAL BENEFITS.**

31 (a) MEDICAL BENEFITS PROVIDED.—The United States
32 shall furnish, to an individual receiving medical benefits under
33 this section for an illness, the services, appliances, and supplies
34 prescribed or recommended by a qualified physician for that ill-
35 ness, which the President considers likely to cure, give relief,
36 or reduce the degree or the period of that illness.

1 (b) PERSONS FURNISHING BENEFITS.—(1) These serv-
2 ices, appliances, and supplies shall be furnished by or on the
3 order of United States medical officers and hospitals, or, at the
4 individual's option, by or on the order of physicians and hos-
5 pitals designated or approved by the President.

6 (2) The individual may initially select a physician to pro-
7 vide medical services, appliances, and supplies under this sec-
8 tion in accordance with such regulations and instructions as the
9 President considers necessary.

10 (c) TRANSPORTATION AND EXPENSES.—The individual
11 may be furnished necessary and reasonable transportation and
12 expenses incident to the securing of such services, appliances,
13 and supplies.

14 (d) COMMENCEMENT OF BENEFITS.—An individual receiv-
15 ing benefits under this section shall be furnished those benefits
16 as of the date on which that individual submitted the claim for
17 those benefits in accordance with this title.

18 (e) PAYMENT FROM COMPENSATION FUND.—The benefits
19 provided under this section, when authorized or approved by
20 the President, shall be paid from the compensation fund estab-
21 lished under section 3612.

22 (f) EFFECTIVE DATE.—This section shall take effect on
23 July 31, 2001, unless Congress otherwise provides in an Act
24 enacted before that date.

25 **SEC. 3630. SEPARATE TREATMENT OF CERTAIN URA-**
26 **NIUM EMPLOYEES.**

27 (a) COMPENSATION PROVIDED.—An individual who re-
28 ceives, or has received, \$100,000 under section 5 of the Radi-
29 ation Exposure Compensation Act (42 U.S.C. 2210 note) for
30 a claim made under that Act (hereinafter in this section re-
31 ferred to as a “covered uranium employee”), or the survivor of
32 that covered uranium employee if the employee is deceased,
33 shall receive compensation under this section in the amount of
34 \$50,000.

35 (b) MEDICAL BENEFITS.—A covered uranium employee
36 shall receive medical benefits under section 3629 for the illness

1 for which that employee received \$100,000 under section 5 of
2 that Act.

3 (c) COORDINATION WITH RECA.—The compensation and
4 benefits provided in subsections (a) and (b) are separate from
5 any compensation or benefits provided under that Act.

6 (d) PAYMENT FROM COMPENSATION FUND.—The com-
7 pensation provided under this section, when authorized or ap-
8 proved by the President, shall be paid from the compensation
9 fund established under section 3612.

10 (e) SURVIVORS.—(1) Subject to the provisions of this sec-
11 tion, if a covered uranium employee dies before the effective
12 date specified in subsection (g), whether or not the death is a
13 result of the illness specified in subsection (b), a survivor of
14 that employee may, on behalf of that survivor and any other
15 survivors of that employee, receive the compensation provided
16 for under this section.

17 (2) The right to receive compensation under this section
18 shall be afforded to survivors in the same order of precedence
19 as that set forth in section 8109 of title 5, United States Code.

20 (f) PROCEDURES REQUIRED.—The President shall estab-
21 lish procedures to identify and notify each covered uranium em-
22 ployee, or the survivor of that covered uranium employee if that
23 employee is deceased, of the availability of compensation and
24 benefits under this section.

25 (g) EFFECTIVE DATE.—This section shall take effect on
26 July 31, 2001, unless Congress otherwise provides in an Act
27 enacted before that date.

28 **SEC. 3631. ASSISTANCE FOR CLAIMANTS AND POTEN-**
29 **TIAL CLAIMANTS.**

30 (a) ASSISTANCE FOR CLAIMANTS.—The President shall,
31 upon the receipt of a request for assistance from a claimant
32 under the compensation program, provide assistance to the
33 claimant in connection with the claim, including—

34 (1) assistance in securing medical testing and diag-
35 nostic services necessary to establish the existence of a cov-
36 ered beryllium illness, chronic silicosis, or cancer; and

1 (2) such other assistance as may be required to de-
2 velop facts pertinent to the claim.

3 (b) ASSISTANCE FOR POTENTIAL CLAIMANTS.—The Presi-
4 dent shall take appropriate actions to inform and assist covered
5 employees who are potential claimants under the compensation
6 program, and other potential claimants under the compensation
7 program, of the availability of compensation under the com-
8 pensation program, including actions to—

9 (1) ensure the ready availability, in paper and elec-
10 tronic format, of forms necessary for making claims;

11 (2) provide such covered employees and other potential
12 claimants with information and other support necessary for
13 making claims, including—

14 (A) medical protocols for medical testing and diag-
15 nosis to establish the existence of a covered beryllium
16 illness, chronic silicosis, or cancer; and

17 (B) lists of vendors approved for providing labora-
18 tory services related to such medical testing and diag-
19 nosis;

20 (3) provide such additional assistance to such covered
21 employees and other potential claimants as may be required
22 for the development of facts pertinent to a claim.

23 (c) INFORMATION FROM BERYLLIUM VENDORS AND
24 OTHER CONTRACTORS.—As part of the assistance program
25 provided under subsections (a) and (b), and as permitted by
26 law, the Secretary of Energy shall, upon the request of the
27 President, require a beryllium vendor or other Department of
28 Energy contractor or subcontractor to provide information rel-
29 evant to a claim or potential claim under the compensation pro-
30 gram to the President.

31 **Subtitle C—Treatment, Coordination,**
32 **and Forfeiture of Compensation**
33 **and Benefits**

34 **SEC. 3641. OFFSET FOR CERTAIN PAYMENTS.**

35 A payment of compensation to an individual, or to a sur-
36 vivor of that individual, under subtitle B shall be offset by the

1 amount of any payment made pursuant to a final award or set-
2 tlement on a claim (other than a claim for worker's compensa-
3 tion), against any person, that is based on injuries incurred by
4 that individual on account of the exposure of a covered beryl-
5 lium employee, covered employee with cancer, covered employee
6 with chronic silicosis (as defined in section 3627), or covered
7 uranium employee (as defined in section 3630), while so em-
8 ployed, to beryllium, radiation, silica, or radiation, respectively.

9 **SEC. 3642. SUBROGATION OF THE UNITED STATES.**

10 Upon payment of compensation under subtitle B, the
11 United States is subrogated for the amount of the payment to
12 a right or claim that the individual to whom the payment was
13 made may have against any person on account of injuries re-
14 ferred to in section 3641.

15 **SEC. 3643. PAYMENT IN FULL SETTLEMENT OF CLAIMS.**

16 The acceptance by an individual of payment of compensa-
17 tion under subtitle B with respect to a covered employee shall
18 be in full satisfaction of all claims of or on behalf of that indi-
19 vidual against the United States, against a Department of En-
20 ergy contractor or subcontractor, beryllium vendor, or atomic
21 weapons employer, or against any person with respect to that
22 person's performance of a contract with the United States, that
23 arise out of an exposure referred to in section 3641.

24 **SEC. 3644. EXCLUSIVITY OF REMEDY AGAINST THE**
25 **UNITED STATES AND AGAINST CONTRAC-**
26 **TORS AND SUBCONTRACTORS.**

27 (a) IN GENERAL.—The liability of the United States or an
28 instrumentality of the United States under this title with re-
29 spect to a cancer (including a specified cancer), chronic sili-
30 cosis, covered beryllium illness, or death related thereto of a
31 covered employee is exclusive and instead of all other liability—

32 (1) of—

33 (A) the United States;

34 (B) any instrumentality of the United States;

35 (C) a contractor that contracted with the Depart-
36 ment of Energy to provide management and operation,
37 management and integration, or environmental remedi-

1 ation of a Department of Energy facility (in its capac-
2 ity as a contractor);

3 (D) a subcontractor that provided services, includ-
4 ing construction, at a Department of Energy facility
5 (in its capacity as a subcontractor); and

6 (E) an employee, agent, or assign of an entity
7 specified in subparagraphs (A) through (D);

8 (2) to—

9 (A) the covered employee;

10 (B) the covered employee’s legal representative,
11 spouse, dependents, survivors and next of kin; and

12 (C) any other person, including any third party as
13 to whom the covered employee, or the covered employ-
14 ee’s legal representative, spouse, dependents, survivors,
15 or next of kin, has a cause of action relating to the
16 cancer (including a specified cancer), chronic silicosis,
17 covered beryllium illness, or death, otherwise entitled to
18 recover damages from the United States, the instru-
19 mentality, the contractor, the subcontractor, or the em-
20 ployee, agent, or assign of one of them;

21 because of the cancer (including a specified cancer), chronic sil-
22 icosis, covered beryllium illness, or death in any proceeding or
23 action including a direct judicial proceeding, a civil action, a
24 proceeding in admiralty, or a proceeding under a tort liability
25 statute or the common law.

26 (b) **APPLICABILITY.**—This section applies to all cases filed
27 on or after the date of the enactment of this Act.

28 (c) **WORKERS’ COMPENSATION.**—This section does not
29 apply to an administrative or judicial proceeding under a State
30 or Federal workers’ compensation law.

31 **SEC. 3645. ELECTION OF REMEDY FOR BERYLLIUM EM-**
32 **PLOYEES AND ATOMIC WEAPONS EMPLOY-**
33 **EES.**

34 (a) **ELECTION TO FILE SUIT.**—If a tort case is filed after
35 the date of the enactment of this Act, alleging a claim referred
36 to in section 3643 against a beryllium vendor or atomic weap-
37 ons employer, the plaintiff shall not be eligible for compensa-

1 tion or benefits under subtitle B unless the plaintiff files such
2 case within the applicable time limits in subsection (b).

3 (b) APPLICABLE TIME LIMITS.—A case described in sub-
4 section (a) shall be filed not later than the later of—

5 (1) the date that is 30 months after the date of the
6 enactment of this Act; or

7 (2) the date that is 30 months after the date the
8 plaintiff first becomes aware that an illness covered by sub-
9 title B of a covered employee may be connected to the expo-
10 sure of the covered employee in the performance of duty.

11 (c) DISMISSAL OF PENDING SUIT.—If a tort case was
12 filed on or before the date of the enactment of this Act, alleg-
13 ing a claim referred to in section 3643 against a beryllium ven-
14 dor or atomic weapons employer, the plaintiff shall not be eligi-
15 ble for compensation or benefits under subtitle B unless the
16 plaintiff dismisses such case not later than December 31, 2003.

17 (d) WORKERS' COMPENSATION.—This section does not
18 apply to an administrative or judicial proceeding under a State
19 or Federal workers' compensation law.

20 **SEC. 3646. CERTIFICATION OF TREATMENT OF PAY-**
21 **MENTS UNDER OTHER LAWS.**

22 Compensation or benefits provided to an individual under
23 subtitle B—

24 (1) shall be treated for purposes of the internal rev-
25 enue laws of the United States as damages for human suf-
26 fering; and

27 (2) shall not be included as income or resources for
28 purposes of determining eligibility to receive benefits de-
29 scribed in section 3803(c)(2)(C) of title 31, United States
30 Code, or the amount of such benefits.

31 **SEC. 3647. CLAIMS NOT ASSIGNABLE OR TRANSFER-**
32 **ABLE; CHOICE OF REMEDIES.**

33 (a) CLAIMS NOT ASSIGNABLE OR TRANSFERABLE.—No
34 claim cognizable under subtitle B shall be assignable or trans-
35 ferable.

36 (b) CHOICE OF REMEDIES.—No individual may receive
37 more than one payment of compensation under subtitle B.

1 **SEC. 3648. ATTORNEY FEES.**

2 (a) **GENERAL RULE.**—Notwithstanding any contract, the
3 representative of an individual may not receive, for services
4 rendered in connection with the claim of an individual under
5 subtitle B, more than that percentage specified in subsection
6 (b) of a payment made under subtitle B on such claim.

7 (b) **APPLICABLE PERCENTAGE LIMITATIONS.**—The per-
8 centage referred to in subsection (a) is—

9 (1) 2 percent for the filing of an initial claim; and

10 (2) 10 percent with respect to any claim with respect
11 to which a representative has made a contract for services
12 before the date of the enactment of this Act.

13 (c) **PENALTY.**—Any such representative who violates this
14 section shall be fined not more than \$5,000.

15 **SEC. 3649. CERTAIN CLAIMS NOT AFFECTED BY AWARDS**
16 **OF DAMAGES.**

17 A payment under subtitle B shall not be considered as any
18 form of compensation or reimbursement for a loss for purposes
19 of imposing liability on any individual receiving such payment,
20 on the basis of such receipt, to repay any insurance carrier for
21 insurance payments, or to repay any person on account of
22 worker's compensation payments; and a payment under subtitle
23 B shall not affect any claim against an insurance carrier with
24 respect to insurance or against any person with respect to
25 worker's compensation.

26 **SEC. 3650. FORFEITURE OF BENEFITS BY CONVICTED**
27 **FELONS.**

28 (a) **FORFEITURE OF COMPENSATION.**—Any individual con-
29 victed of a violation of section 1920 of title 18, United States
30 Code, or any other Federal or State criminal statute relating
31 to fraud in the application for or receipt of any benefit under
32 subtitle B or under any other Federal or State workers' com-
33 pensation law, shall forfeit (as of the date of such conviction)
34 any entitlement to any compensation or benefit under subtitle
35 B such individual would otherwise be awarded for any injury,
36 illness or death covered by subtitle B for which the time of in-
37 jury was on or before the date of the conviction.

1 (b) INFORMATION.—Notwithstanding section 552a of title
2 5, United States Code, or any other Federal or State law, an
3 agency of the United States, a State, or a political subdivision
4 of a State shall make available to the President, upon written
5 request from the President and if the President requires the in-
6 formation to carry out this section, the names and Social Secu-
7 rity account numbers of individuals confined, for conviction of
8 a felony, in a jail, prison, or other penal institution or correc-
9 tional facility under the jurisdiction of that agency.

10 **SEC. 3651. COORDINATION WITH OTHER FEDERAL RADI-**
11 **ATION COMPENSATION LAWS.**

12 Except in accordance with section 3630, an individual may
13 not receive compensation or benefits under the compensation
14 program for cancer and also receive compensation under the
15 Radiation Exposure Compensation Act (42 U.S.C. 2210 note)
16 or section 1112(c) of title 38, United States Code.

17 **Subtitle D—Assistance in State**
18 **Workers' Compensation Proceedings**

19 **SEC. 3661. AGREEMENTS WITH STATES.**

20 (a) AGREEMENTS AUTHORIZED.—The Secretary of En-
21 ergy (hereinafter in this section referred to as the “Secretary”)
22 may enter into agreements with the chief executive officer of
23 a State to provide assistance to a Department of Energy con-
24 tractor employee in filing a claim under the appropriate State
25 workers' compensation system.

26 (b) PROCEDURE.—Pursuant to agreements under sub-
27 section (a), the Secretary may—

28 (1) establish procedures under which an individual
29 may submit an application for review and assistance under
30 this section; and

31 (2) review an application submitted under this section
32 and determine whether the applicant submitted reasonable
33 evidence that—

34 (A) the application was filed by or on behalf of a
35 Department of Energy contractor employee or employ-
36 ee's estate; and

1 (B) the illness or death of the Department of En-
2 ergy contractor employee may have been related to em-
3 ployment at a Department of Energy facility.

4 (c) SUBMITTAL OF APPLICATIONS TO PANELS.—If pro-
5 vided in an agreement under subsection (a), and if the Sec-
6 retary determines that the applicant submitted reasonable evi-
7 dence under subsection (b)(2), the Secretary shall submit the
8 application to a physicians panel established under subsection
9 (d). The Secretary shall assist the employee in obtaining addi-
10 tional evidence within the control of the Department of Energy
11 and relevant to the panel's deliberations.

12 (d) COMPOSITION AND OPERATION OF PANELS.—(1) The
13 Secretary shall inform the Secretary of Health and Human
14 Services of the number of physicians panels the Secretary has
15 determined to be appropriate to administer this section, the
16 number of physicians needed for each panel, and the area of
17 jurisdiction of each panel. The Secretary may determine to
18 have only one panel.

19 (2)(A) The Secretary of Health and Human Services shall
20 appoint panel members with experience and competency in di-
21 agnosing occupational illnesses under section 3109 of title 5,
22 United States Code.

23 (B) Each member of a panel shall be paid at the rate of
24 pay payable for level III of the Executive Schedule for each day
25 (including travel time) the member is engaged in the work of
26 a panel.

27 (3) A panel shall review an application submitted to it by
28 the Secretary and determine, under guidelines established by
29 the Secretary, by regulation, whether the illness or death that
30 is the subject of the application arose out of and in the course
31 of employment by the Department of Energy and exposure to
32 a toxic substance at a Department of Energy facility.

33 (4) At the request of a panel, the Secretary and a con-
34 tractor who employed a Department of Energy contractor em-
35 ployee shall provide additional information relevant to the pan-
36 el's deliberations. A panel may consult specialists in relevant
37 fields as it determines necessary.

1 (5) Once a panel has made a determination under para-
2 graph (3), it shall report to the Secretary its determination and
3 the basis for the determination.

4 (6) A panel established under this subsection shall not be
5 subject to the Federal Advisory Committee Act (5 U.S.C.
6 App.).

7 (e) ASSISTANCE.—If provided in an agreement under sub-
8 section (a)—

9 (1) the Secretary shall review a panel's determination
10 made under subsection (d), information the panel consid-
11 ered in reaching its determination, any relevant new infor-
12 mation not reasonably available at the time of the panel's
13 deliberations, and the basis for the panel's determination;

14 (2) as a result of the review under paragraph (1), the
15 Secretary shall accept the panel's determination in the ab-
16 sence of significant evidence to the contrary;

17 (3) if the panel has made a positive determination
18 under subsection (d) and the Secretary accepts the deter-
19 mination under paragraph (2), or the panel has made a
20 negative determination under subsection (d) and the Sec-
21 retary finds significant evidence to the contrary—

22 (A) the Secretary shall assist the applicant to file
23 a claim under the appropriate State workers' com-
24 pensation system based on the health condition that
25 was the subject of the determination;

26 (B) the Secretary thereafter—

27 (i) may not contest such claim;

28 (ii) may not contest an award made regarding
29 such claim; and

30 (iii) may, to the extent permitted by law, di-
31 rect the Department of Energy contractor who em-
32 ployed the applicant not to contest such claim or
33 such award,

34 unless the Secretary finds significant new evidence to
35 justify such contest; and

36 (C) any costs of contesting a claim or an award
37 regarding the claim incurred by the contractor who em-

1 ployed the Department of Energy contractor employee
2 who is the subject of the claim shall not be an allowable
3 cost under a Department of Energy contract.

4 (f) INFORMATION.—At the request of the Secretary, a con-
5 tractor who employed a Department of Energy contractor em-
6 ployee shall make available to the Secretary and the employee
7 information relevant to deliberations under this section.

8 (g) GAO REPORT.—Not later than February 1, 2002, the
9 Comptroller General shall submit to Congress a report on the
10 implementation by the Department of Energy of the provisions
11 of this section and of the effectiveness of the program under
12 this section in assisting Department of Energy contractor em-
13 ployees in obtaining compensation for occupational illness.