

107TH CONGRESS
2D SESSION

S. 3058

To amend the Energy Employees Occupational Illness Compensation Program Act of 2000 to provide benefits for contractor employees of the Department of Energy who were exposed to toxic substances at Department of Energy facilities, to provide coverage under subtitle B of that Act for certain additional individuals, to establish an ombudsman and otherwise reform the assistance provided to claimants under that Act, and for other purposes.

IN THE SENATE OF THE UNITED STATES

OCTOBER 4, 2002

Mr. BINGAMAN (for himself, Mr. BUNNING, Mr. HARKIN, Mr. ALLARD, Mr. REID, and Mrs. CLINTON) introduced the following bill; which was read twice and referred to the Committee on Health, Education, Labor, and Pensions

A BILL

To amend the Energy Employees Occupational Illness Compensation Program Act of 2000 to provide benefits for contractor employees of the Department of Energy who were exposed to toxic substances at Department of Energy facilities, to provide coverage under subtitle B of that Act for certain additional individuals, to establish an ombudsman and otherwise reform the assistance provided to claimants under that Act, 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 “Energy Workers Com-
5 pensation Act of 2002”.

6 **SEC. 2. FINDINGS; PURPOSE.**

7 (a) FINDINGS.—Congress makes the following find-
8 ings:

9 (1) The Energy Employees Occupational Illness
10 Compensation Program Act of 2000 (the “Act”) was
11 intended to ensure timely, uniform, and adequate
12 compensation of covered employees (and, where ap-
13 plicable, survivors of such employees) suffering from
14 illnesses incurred by such employees in the perform-
15 ance of duty for the Department of Energy and cer-
16 tain of its contractors, subcontractors, and vendors,
17 and to provide parity for uranium miners under the
18 Radiation Exposure Compensation Act (42 U.S.C.
19 2210 note).

20 (2) Four Federal agencies, the Departments of
21 Labor, Health and Human Services, Energy, and
22 Justice, have been assigned responsibilities under
23 the Act pursuant to Executive Order No. 13179,
24 dated December 7, 2000 (42 U.S.C. 7384 note).

1 (3) The Department of Labor began accepting
2 claims July 31, 2001, and the Department of Health
3 and Human Services, through the National Institute
4 for Occupational Safety and Health, will perform ra-
5 diation dose reconstruction for cancer claims and
6 evaluate petitions for Special Exposure Cohorts.

7 (4) The Department of Energy finalized its reg-
8 ulations governing claims under Subtitle D of the
9 Act on August 14, 2002. Those regulations require
10 claimants to use a State workers' compensation sys-
11 tem to secure benefits after receiving a positive find-
12 ings from a Department of Energy physicians panel.
13 The Department of Energy has conceded, however,
14 that it will not have a willing payor for as many as
15 50 percent of the claims that are meritorious. As a
16 consequence, many deserving claimants with a posi-
17 tive determination from a Department of Energy
18 physicians panel will nonetheless be denied benefits.

19 (5) The Department of Energy's regulations (at
20 10 C.F.R. Part 852) direct contractors of the De-
21 partment to adopt a non-adversarial posture in state
22 workers' compensation proceedings, which are struc-
23 tured as an adversarial forum. The policy of insert-
24 ing a non-adversarial respondent in an adversarial
25 system should be remedied by utilizing a non-adver-

1 sarial dispute resolution system. Taxpayers would
2 also benefit from placing claimants in a non-adver-
3 sarial system, such as the type of systems adminis-
4 tered by the Department of Labor under subtitle B
5 of the Act or under chapter 81 of title 5, United
6 States Code (known as the Federal Employees Com-
7 pensation Act), as doing so would assure that dis-
8 abilities related to occupational illnesses would be
9 compensated proportional to the degree of injury.

10 (6) In order to assure that congressional intent
11 is honored with respect to the Department of Ener-
12 gy's program of worker assistance with state worker
13 compensation for occupational illnesses that arose
14 out of the course of employment from exposure to
15 toxic substances at Department of Energy facilities,
16 the Department of Energy's implementation of sub-
17 title D of the Act requires reform, refinement, and
18 clarification.

19 (7) Certain renal diseases related to uranium
20 exposure and cancers related to employment by be-
21 ryllium vendors should be added to coverage under
22 subtitle B.

23 (8) Congress intended that follow-up imple-
24 menting legislation would be required when it passed
25 the Act and, in section 3613 of the Act, directed the

1 administration to provide such legislation. Although
2 such legislation was forwarded on January 15, 2001,
3 and Congress adopted technical amendments to the
4 Act in 2001, significant shortcomings in the Act
5 have been identified as the Act has been imple-
6 mented.

7 (b) PURPOSE.—The purpose of this Act is to amend
8 the Energy Employees Occupational Illness Compensation
9 Program Act of 2000 to—

10 (1) ensure that meritorious claims for exposure
11 to toxic substances at Department of Energy facili-
12 ties are compensated under subtitle D of the Act;

13 (2) enhance assistance to claimants at the De-
14 partment of Labor;

15 (3) ensure that there is parity in treatment of
16 chronic renal disease between uranium-exposed De-
17 partment of Energy employees (including employees
18 of contractors, subcontractors, and atomic weapons
19 employer facilities) and the uranium-exposed work-
20 ers under the Radiation Exposure Compensation
21 Act;

22 (4) provide coverage of lung cancer for covered
23 beryllium workers; and

24 (5) make administrative improvements and
25 technical corrections.

1 **TITLE I—WORKERS’ COMPENSA-**
 2 **TION BENEFITS FOR DOE**
 3 **CONTRACTOR EMPLOYEES**
 4 **EXPOSED TO TOXIC SUB-**
 5 **STANCES**

6 **SEC. 101. BENEFITS.**

7 Subtitle D of the Energy Employees Occupational Ill-
 8 ness Compensation Program Act of 2000 (42 U.S.C.
 9 7385o) is amended to read as follows:

10 **“Subtitle D—Workers’ Compensa-**
 11 **tion Benefits for DOE Con-**
 12 **tractor Employees Exposed to**
 13 **Toxic Substances**

14 **“SEC. 3661. DEFINITIONS.**

15 “In this subtitle:

16 “(1) The term ‘DOE contractor’ means any of
 17 the following:

18 “(A) A contractor (or subcontractor at any
 19 tier) of the Department of Energy.

20 “(B) A contractor (or subcontractor at any
 21 tier) of USEC, a Government-owned corpora-
 22 tion, during the period beginning on July 1,
 23 1993, and ending on July 28, 1998.

24 “(2) The term ‘DOE contractor employee’
 25 means any of the following:

1 “(A) An employee of a contractor (or sub-
2 contractor at any tier) of the Department of
3 Energy.

4 “(B) An employee of a contractor (or sub-
5 contractor at any tier) of USEC, a Govern-
6 ment-owned corporation, during the period be-
7 ginning on July 1, 1993, and ending on July
8 28, 1998.

9 “(3) The term ‘covered DOE contractor em-
10 ployee’ means a DOE contractor employee, if a
11 claim relating to that employee is forwarded by the
12 Secretary of Energy under section 3662(d)(3)(A) to
13 the Secretary of Labor for payment under section
14 3663.

15 “(4) The term ‘specified illness’ means, with re-
16 spect to a covered DOE contractor employee, the ill-
17 ness by reason of which the claim relating to that
18 employee was forwarded by the Secretary of Energy
19 under section 3662(d)(3)(A) to the Secretary of
20 Labor for payment under section 3663.

21 **“SEC. 3662. DETERMINATIONS OF CAUSATION BY DEPART-**
22 **MENT OF ENERGY.**

23 “(a) PROCEDURE FOR SUBMITTING CLAIMS.—

24 “(1) IN GENERAL.—The Secretary of Energy
25 shall establish, by regulation, procedures under

1 which an individual may submit a claim for benefits
2 under this subtitle due to occupational illness from
3 exposure to toxic substances.

4 “(2) NOTICE TO CLAIMANT.—Not later than 10
5 days after the receipt of a claim under paragraph
6 (1), the Secretary of Energy shall notify the claim-
7 ant of the receipt of the claim and provide the name,
8 address, and phone number of a person capable of
9 answering questions and providing additional infor-
10 mation with respect to the procedures and benefits
11 under this subtitle.

12 “(b) INITIAL REVIEW BY DOE.—

13 “(1) EVIDENCE REQUIRED.—The Secretary of
14 Energy shall review each claim submitted under this
15 section and, for each such claim, determine not later
16 than 30 days after receipt of the claim whether the
17 claimant submitted reasonable evidence of both of
18 the following:

19 “(A) The claim was filed by or on behalf
20 of a DOE contractor employee or such employ-
21 ee’s estate.

22 “(B) The illness or death of the DOE con-
23 tractor employee may have been related to em-
24 ployment at a Department of Energy facility.

25 “(2) DETERMINATIONS.—

1 “(A) If the Secretary determines that the
2 claimant did not submit reasonable evidence
3 under either paragraph (1)(A) or (1)(B), or
4 both, the Secretary shall, not later than 10 days
5 after making such determination, notify the
6 claimant of such determination and include the
7 claimant’s options for appeal or for submitting
8 additional evidence.

9 “(B) If the Secretary determines that the
10 claimant did submit reasonable evidence under
11 both paragraphs (1)(A) and (1)(B), the Sec-
12 retary shall—

13 “(i) not later than 10 days after mak-
14 ing such determination, notify the claimant
15 of such determination;

16 “(ii) ensure that the claimant is af-
17 farded the opportunity to review the entire
18 record, and to supplement the record with-
19 in 30 days after the date on which infor-
20 mation is provided by the DOE contractor,
21 before the claim is submitted to a physi-
22 cians panel;

23 “(iii) not later than 10 days after the
24 end of the 30-day period referred to in
25 clause (ii) or the date on which the claim-

1 ant completes the supplement of the record
2 under that clause, whichever is later, sub-
3 mit the claim to a physicians panel for re-
4 view under subsection (c); and

5 “(iv) not later than 10 days after sub-
6 mitting the claim to a physicians panel, no-
7 tify the claimant of such submission.

8 “(c) REVIEW BY PHYSICIANS PANELS.—

9 “(1) COMPOSITION.—

10 “(A) The Secretary of Energy shall inform
11 the Secretary of Health and Human Services of
12 the number of physicians panels the Secretary
13 of Energy has determined to be appropriate to
14 administer this section, the number of physi-
15 cians needed for each panel, and the area of ju-
16 risdiction of each panel.

17 “(B) The Secretary of Health and Human
18 Services shall appoint panel members with expe-
19 rience and competency in diagnosing occupa-
20 tional illnesses under section 3109 of title 5,
21 United States Code. Each member of a panel
22 shall be paid at the rate of pay payable for level
23 III of the Executive Schedule for each day (in-
24 cluding travel time) the member is engaged in
25 the work of a panel.

1 “(C) A panel established under this sub-
2 section shall not be subject to the Federal Advi-
3 sory Committee Act (5 U.S.C. App.).

4 “(2) OPERATION.—

5 “(A) The Secretary of Energy shall assist
6 the claimant in obtaining additional evidence
7 within the control of the Department of Energy
8 or a DOE contractor who employed a DOE
9 contractor employee and relevant to the panel’s
10 deliberations.

11 “(B) At the request of a panel, the Sec-
12 retary of Energy and a DOE contractor who
13 employed a DOE contractor employee shall pro-
14 vide additional information relevant to the pan-
15 el’s deliberations. A panel may consult special-
16 ists in relevant fields as it determines nec-
17 essary.

18 “(C) In any case in which the panel finds
19 that additional diagnostic testing or an expo-
20 sure assessment is necessary to the panel’s
21 deliberations—

22 “(i) the panel shall so notify the Sec-
23 retary of Energy and the claimant;

24 “(ii) the claimant may obtain such di-
25 agnostic testing or exposure assessment

1 using a qualified physician chosen by the
2 claimant or a qualified occupational health
3 expert (as applicable) or, if the claimant so
4 desires, may obtain such diagnostic testing
5 or exposure assessment using the program
6 carried out under section 3162 of the Na-
7 tional Defense Authorization Act for Fiscal
8 Year 1993 (42 U.S.C. 7274i) to monitor
9 Department of Energy workers exposed to
10 hazardous and radioactive substances; and

11 “(iii) any costs of such diagnostic
12 testing or exposure assessment shall be
13 paid for from the Fund established under
14 section 3612 and shall be provided by the
15 Secretary of Energy through a method
16 under which the claimant is not required
17 to advance any amount toward payment of
18 such costs.

19 “(D) The Secretary of Energy is author-
20 ized to enter into or modify cooperative agree-
21 ments with providers who are implementing the
22 program carried out under section 3162 of the
23 National Defense Authorization Act for Fiscal
24 Year 1993 (42 U.S.C. 7274i) to provide assess-
25 ments of exposures to toxic substances at De-

1 partment of Energy facilities to claimants
2 under circumstances covered by subparagraph
3 (C).

4 “(3) DETERMINATION OF CAUSATION.—A panel
5 shall review a claim submitted to it under this sub-
6 section and shall determine, under guidelines estab-
7 lished by the Secretary of Energy, by regulation,
8 whether the illness or death that is the subject of
9 the claim arose out of and in the course of employ-
10 ment by the Department of Energy and exposure to
11 a toxic substance at a Department of Energy facil-
12 ity. For purposes of the preceding sentence, illness
13 or death shall be deemed to arise out of and in the
14 course of employment by the Department of Energy
15 and exposure to a toxic substance at a Department
16 of Energy facility if exposure to the toxic substance
17 (or substances, as the case may be) was a significant
18 factor which aggravated, contributed to, or caused
19 the illness or death.

20 “(4) MAJORITY VOTE.—A determination under
21 paragraph (3) shall be made by majority vote.

22 “(5) REPORT TO SECRETARY.—Once a panel
23 has made a determination under paragraph (3), it
24 shall report to the Secretary of Energy its deter-
25 mination and the basis for the determination.

1 “(d) REVIEW OF PANEL DETERMINATIONS.—

2 “(1) IN GENERAL.—The Secretary of Energy
3 shall review a panel’s determination under sub-
4 section (c)(3), information the panel considered in
5 reaching its determination, any relevant new infor-
6 mation not reasonably available at the time of the
7 panel’s deliberations, and the basis for the panel’s
8 determination.

9 “(2) ACCEPTANCE OF PANEL DETERMINA-
10 TION.—As a result of the review under paragraph
11 (1), the Secretary shall accept the panel’s deter-
12 mination in the absence of a preponderance of evi-
13 dence to the contrary.

14 “(3) ACTION UPON ACCEPTED CLAIMS.—If the
15 panel has made a positive determination under sub-
16 section (c)(3) and the Secretary accepts the deter-
17 mination under paragraph (2), or the panel has
18 made a negative determination under subsection
19 (c)(3) and the Secretary finds significant evidence to
20 the contrary—

21 “(A) the Secretary of Energy shall within
22 10 days forward the claim to the Secretary of
23 Labor for payment under section 3663, to-
24 gether with information relating to—

1 “(i) the DOE contractor employee to
2 whom the claim relates;

3 “(ii) the illness to which the claim re-
4 lates;

5 “(iii) the determination of the panel
6 and the basis for the determination;

7 “(iv)(I) the acceptance of the Sec-
8 retary and the basis for the acceptance; or

9 “(II) the reversal of the negative de-
10 termination by the panel and the basis for
11 the reversal;

12 “(v) the employment to which the
13 claim relates, including available wage or
14 salary information; and

15 “(vi) any other matter that the Sec-
16 retary of Labor considers necessary;

17 “(B) the Secretary of Energy thereafter—

18 “(i) shall not contest the claim;

19 “(ii) shall not contest an award made
20 regarding the claim; and

21 “(iii) shall direct the DOE contractor
22 who employed the DOE contractor em-
23 ployee to which the claim relates not to
24 contest the claim or such award in any ad-
25 ministrative or judicial forum, and such

1 obligation in no case shall be considered
2 discretionary; and

3 “(C) any costs of contesting a claim or an
4 award regarding the claim incurred by the
5 DOE contractor who employed the DOE con-
6 tractor employee who is the subject of the claim
7 shall not be an allowable cost under a Depart-
8 ment of Energy contract.

9 “(e) ACCESS TO INFORMATION.—

10 “(1) DUTY TO PROVIDE INFORMATION.—At the
11 request of the Secretary of Energy, a DOE con-
12 tractor who employed a DOE contractor employee
13 and any other entity possessing information related
14 to such employee relevant to deliberations under this
15 section shall make such information available to the
16 Secretary.

17 “(2) COPIES TO CLAIMANT.—The Secretary of
18 Energy shall require that a DOE contractor who
19 provides any information to the Secretary or a panel
20 under this section shall simultaneously provide such
21 information to the claimant.

22 “(f) OUTREACH.—The Secretary of Energy, in co-
23 operation with the Secretary of Labor, shall carry out a
24 program of outreach and education about the availability
25 of benefits under this subtitle. The Secretary shall make

1 available in paper and electronic format forms and infor-
2 mation available for potential claimants. As part of the
3 program of outreach, the Secretary shall conduct notifica-
4 tion by mail and use the former worker medical screening
5 programs to notify, educate, and assist claimants.

6 “(g) ADMINISTRATIVE AND JUDICIAL REVIEW.—The
7 Secretary of Energy shall establish a process under which
8 a claimant may obtain prompt and independent adminis-
9 trative review of any adverse determination by the Sec-
10 retary under subsection (b) or (d) or by a panel under
11 subsection (c). The results of any such administrative re-
12 view shall be deemed to be a final agency action subject
13 to judicial review.

14 “(h) REPORT TO CONGRESS.—Not later than Feb-
15 ruary 1 of each year, the Secretary of Energy shall submit
16 to Congress a report on the implementation and operation
17 of this section. The report shall include, for the preceding
18 calendar year—

19 “(1) the number of claims received under this
20 subtitle;

21 “(2) the size of the backlog in processing such
22 claims;

23 “(3) the number of such claims submitted to a
24 physicians panel;

1 “(4) the number of such claims for which a
2 panel made a determination, including the number
3 of determinations that were positive and the number
4 that were negative;

5 “(5) the number of determinations accepted, re-
6 versed, and denied by the Secretary;

7 “(6) the number of claims denied under sub-
8 section (b) for failure to submit reasonable evidence;

9 “(7) the number and type of diagnostic tests
10 and exposure assessments requested by a panel, and
11 the number and type of such tests and assessments
12 that were carried out;

13 “(8) the number and type of claims appealed,
14 and the dispositions of such appeals; and

15 “(9) the expenditures made, and staff and con-
16 tractors employed, in carrying out the Department
17 of Energy’s responsibilities under this section.

18 “(i) **APPLICABILITY OF EXISTING REGULATIONS.—**
19 In implementing the Energy Workers Compensation Act
20 of 2002 and the amendments to this title made by that
21 Act, regulations prescribed by the Secretary of Energy be-
22 fore the date of the enactment of that Act may, to the
23 extent not inconsistent with this title (as so amended),
24 continue to apply to this title.

1 **“SEC. 3663. PAYMENT OF BENEFITS BY DEPARTMENT OF**
2 **LABOR.**

3 “(a) IN GENERAL.—

4 “(1) PAYMENTS.—Payments shall be made with
5 respect to a covered DOE contractor employee in ac-
6 cordance with this section for the disability or death
7 of that employee resulting from that employee’s
8 specified illness.

9 “(2) MEDICAL BENEFITS.—A covered DOE
10 contractor employee shall receive medical benefits
11 under section 3629 for that employee’s specified ill-
12 ness.

13 “(3) PAYMENT FROM FUND.—The compensa-
14 tion provided under this section shall be paid from
15 the Fund established under section 3612.

16 “(b) DUTY OF SECRETARY OF LABOR.—The Sec-
17 retary of Labor shall have the duty to carry out this sec-
18 tion.

19 “(c) NATURE AND AMOUNT OF PAYMENTS.—

20 “(1) IN GENERAL.—The following provisions of
21 subchapter I of chapter 81 of title 5, United States
22 Code, apply to a covered DOE contractor employee
23 (including the regulations prescribed with respect to
24 those provisions, adapted as appropriate), and the
25 Secretary of Labor shall provide, with respect to
26 that employee and that employee’s specified illness,

1 payments determined in accordance with those provi-
2 sions: Sections 8102(a), 8105, 8106, 8107, 8108,
3 8109, 8110, 8111(a), 8112, 8114, 8115, 8116,
4 8117, 8133, 8134, and 8146a.

5 “(2) ORGANS AND PHYSIOLOGICAL SYSTEMS.—

6 For purposes of carrying out this subtitle, the Sec-
7 retary of Labor shall prescribe additional regulations
8 for resolving claims under this subtitle of partial or
9 total loss of use of function of organs or physio-
10 logical systems that are not already covered by exist-
11 ing regulations. Such additional regulations shall
12 cover the liver, brain, stomach, heart, esophagus,
13 bladder, thyroid, pancreas, and nervous system, and
14 such additional organs and physiological systems as
15 the Secretary considers appropriate. The Secretary
16 shall issue such regulations not later than 90 days
17 after the date of the enactment of the Energy Work-
18 ers Compensation Act of 2002.

19 “(d) ADMINISTRATIVE AND JUDICIAL REVIEW.—

20 “(1) IN GENERAL.—The Secretary of Labor
21 shall establish a process under which a claimant may
22 obtain administrative review of any adverse deter-
23 mination by the Secretary of Labor under this sec-
24 tion. Such process shall not apply to any adverse de-
25 termination by the Secretary of Energy.

1 “(2) JUDICIAL REVIEW.—The results of any
2 such administrative review shall be deemed to be a
3 final agency action subject to judicial review in the
4 United States district court for the district in which
5 the claimant resides.

6 “(3) ATTORNEY FEES.—In any proceeding pur-
7 suant to this subsection, attorney fees shall be avail-
8 able on the same basis as such fees are available
9 under section 28 of the Longshore and Harbor
10 Workers’ Compensation Act (33 U.S.C. 928).

11 **“SEC. 3664. GENERAL PROVISIONS RELATING TO RESOLU-**
12 **TION OF CLAIMS.**

13 “(a) NONADVERSARIAL.—The Secretary of Energy
14 and the Secretary of Labor shall each ensure that claims
15 under this subtitle are resolved in a nonadversarial man-
16 ner.

17 “(b) NO STATUTE OF LIMITATIONS.—A claim under
18 this subtitle shall not be barred by any statute of limita-
19 tions.

20 **“SEC. 3665. OFFSET FOR CERTAIN PAYMENTS.**

21 “A claimant awarded benefits under this subtitle as
22 a result of a specified illness or death of a DOE contractor
23 employee who receives benefits because of the same illness
24 or death from any State workers’ compensation system
25 shall receive the benefits specified in this subtitle for such

1 illness or death, reduced by the amount of any workers'
2 compensation benefits that the claimant receives or will
3 receive on account of such illness or death under any State
4 workers' compensation system during the period that
5 awarded benefits are provided under this subtitle, after de-
6 ducting the reasonable costs, as determined by the Sec-
7 retary of Labor by regulation, of obtaining such benefits.

8 **“SEC. 3666. SUBROGATION OF THE UNITED STATES NOT AP-**
9 **PLICABLE.**

10 “Notwithstanding any other provision of law, the
11 United States has no right of subrogation against any per-
12 son by reason of payments or other benefits provided
13 under this subtitle.

14 **“SEC. 3667. CERTIFICATION OF TREATMENT OF PAYMENTS**
15 **UNDER OTHER LAWS.**

16 “Compensation or benefits provided to an individual
17 under this subtitle—

18 “(1) shall be treated for purposes of the inter-
19 nal revenue laws of the United States as damages
20 for human suffering; and

21 “(2) shall not be included as income or re-
22 sources for purposes of determining eligibility to re-
23 ceive benefits described in section 3803(c)(2)(C) of
24 title 31, United States Code, or the amount of such
25 benefits.

1 **“SEC. 3668. CERTAIN CLAIMS NOT AFFECTED BY AWARDS**
2 **OF DAMAGES.**

3 “A payment under this subtitle shall not be consid-
4 ered as any form of compensation or reimbursement for
5 a loss for purposes of imposing liability on any individual
6 receiving such payment, on the basis of such receipt, to
7 repay any insurance carrier for insurance payments; and
8 a payment under this subtitle shall not affect any claim
9 against an insurance carrier with respect to insurance.

10 **“SEC. 3669. FORFEITURE OF BENEFITS BY CONVICTED FEL-**
11 **ONS.**

12 “(a) FORFEITURE OF COMPENSATION.—Any indi-
13 vidual convicted of a violation of section 1920 of title 18,
14 United States Code, or any other Federal or State crimi-
15 nal statute relating to fraud in the application for or re-
16 ceipt of any benefit under this title or under any other
17 Federal or State workers’ compensation law, shall forfeit
18 (as of the date of such conviction) any entitlement to any
19 compensation or benefit under this subtitle such individual
20 would otherwise be awarded for any injury, illness, or
21 death covered by this subtitle for which the time of injury
22 was on or before the date of the conviction.

23 “(b) INFORMATION.—Notwithstanding section 552a
24 of title 5, United States Code, or any other Federal or
25 State law, an agency of the United States, a State, or a
26 political subdivision of a State shall make available to the

1 President, upon written request from the President and
2 if the President requires the information to carry out this
3 section, the names and Social Security account numbers
4 of individuals confined, for conviction of a felony, in a jail,
5 prison, or other penal institution or correctional facility
6 under the jurisdiction of that agency.

7 **“SEC. 3670. EXCLUSIVITY OF REMEDY.**

8 “The liability of the United States or a DOE con-
9 tractor in its capacity as an employer of a DOE contractor
10 employee under this subtitle with respect to the specified
11 illness or death of a DOE contractor employee for which
12 compensation is made under this subtitle is exclusive and
13 instead of all other liability of the United States or DOE
14 contractor in such capacity to the employee, his legal rep-
15 resentative, spouse, dependents, next of kin, and any other
16 person otherwise entitled to recover damages from the
17 United States or DOE contractor in such capacity because
18 of the specified illness or death in a direct judicial pro-
19 ceeding, in a civil action, or in admiralty, except for a
20 State workers’ compensation proceeding or a State inten-
21 tional tort liability proceeding. However, this section shall
22 not apply to illness or death for which compensation under
23 this subtitle is not made.

1 **“SEC. 3671. COORDINATION WITH BENEFITS UNDER SUB-**
2 **TITLE B.**

3 “(a) RECEIPT OF SUBTITLE B BENEFITS NO BAR
4 TO APPLICATION UNDER THIS SUBTITLE.—An individual
5 may apply for benefits under this subtitle without regard
6 to whether the individual received a lump sum payment
7 under subtitle B.

8 “(b) OFFSET FOR BENEFITS PAID ON SAME ILLNESS
9 OF SAME PERSON.—If a lump sum payment is made
10 under subtitle B by reason of a specified illness of a per-
11 son, any payment (excluding medical costs) made under
12 this subtitle by reason of the same specified illness of the
13 same person shall be offset by the amount of such lump
14 sum payment. In no case shall a claimant obtain double
15 indemnity wage replacement benefits for specified illness
16 under this subtitle.

17 **“SEC. 3672. ASSIGNMENT OF CLAIM.**

18 “An assignment of a claim for compensation under
19 this subtitle is void. Compensation and claims for com-
20 pensation are exempt from claims of creditors.”.

21 **SEC. 102. GAO REPORT.**

22 Not later than February 1, 2004, the Comptroller
23 General shall submit to Congress a report on the imple-
24 mentation by the Department of Energy of subtitle D of
25 the Energy Employees Occupational Illness Compensation
26 Program Act of 2000 (42 U.S.C. 7385o et seq.), as

1 amended by section 101, and of the effectiveness of such
2 subtitle in assisting DOE contractor employees in obtain-
3 ing compensation for exposure to a toxic substance at a
4 Department of Energy facility.

5 **TITLE II—AMENDMENTS RELAT-**
6 **ING TO SUBTITLE B OF PRO-**
7 **GRAM**

8 **SEC. 201. COVERAGE FOR CHRONIC RENAL DISEASE.**

9 (a) DEFINITIONS FOR PROGRAM ADMINISTRATION.—
10 Section 3621 of the Energy Employees Occupational Ill-
11 ness Compensation Program Act of 2000 (42 U.S.C.
12 7384l) is amended—

13 (1) in paragraph (1), by adding at the end the
14 following new subparagraph:

15 “(D) A covered employee with chronic
16 renal disease.”;

17 (2) in paragraph (15), by striking “or chronic
18 silicosis” and inserting “chronic silicosis, chronic
19 renal disease,”; and

20 (3) by adding at the end the following new
21 paragraphs:

22 “(19) The term ‘chronic renal disease’ includes
23 nephritis and kidney tubal tissue injury and related
24 illnesses of the urogenitoury tract.

1 “(20) The term ‘covered employee with chronic
2 renal disease’ means an individual determined to
3 have sustained chronic renal disease in the perform-
4 ance of duty in accordance with section 3623(f).”.

5 (b) EXPOSURE IN THE PERFORMANCE OF DUTY.—
6 Section 3623 of such Act (42 U.S.C. 7384n) is amended
7 by adding at the end the following new subsection:

8 “(f) CHRONIC RENAL DISEASE.—(1) An individual
9 with chronic renal disease shall, in the absence of substan-
10 tial evidence to the contrary, be determined to have sus-
11 tained chronic renal disease in the performance of duty
12 for purposes of the compensation program if the
13 individual—

14 “(A) was employed in a Department of Energy
15 facility (in the case of a Department of Energy em-
16 ployee or a Department of Energy contractor em-
17 ployee) or an atomic weapons employer facility (in
18 the case of an atomic weapons employee) that con-
19 ducted uranium processing, converting, refining, en-
20 riching, extruding, calcining, machining, or rolling,
21 or that operated as a uranium foundry;

22 “(B) carried out job functions while so em-
23 ployed that resulted in the potential for exposure, in-
24 halation, or uptake of uranium or uranium com-
25 pounds for at least 250 days; and

1 “(C) submits medical evidence that the indi-
2 vidual, after commencing the employment specified
3 in subparagraph (A), contracted chronic renal dis-
4 ease.

5 “(2) Not later than 60 days after the date of the en-
6 actment of the Energy Workers Compensation Act of
7 2002, the Secretary of Energy shall designate a list of De-
8 partment of Energy facilities and atomic weapons em-
9 ployer facilities that were engaged in uranium processing,
10 converting, refining, enriching, extruding, calcining, ma-
11 chining, or rolling, or that operated as a uranium foundry,
12 including the dates such activities were performed. The
13 list of facilities shall not include facilities for which ura-
14 nium millers and transporters are already covered under
15 the Radiation Exposure Compensation Act (42 U.S.C.
16 2210 note).

17 “(3) Not later than 90 days after the date of the en-
18 actment of the Energy Workers Compensation Act of
19 2002, the Secretary of Labor, in consultation with the
20 Secretary of Health and Human Services, shall establish,
21 by regulation, procedures to be followed and medical evi-
22 dence to be submitted by claimants for chronic renal dis-
23 ease claims.”.

24 (c) OFFSET FOR CERTAIN PAYMENTS.—Section
25 3641 of such Act (42 U.S.C. 7385) is amended—

1 (1) by striking “or covered uranium employee
2 (as defined in section 3630),” and inserting “cov-
3 ered uranium employee (as defined in section 3630),
4 covered employee with chronic renal disease,”; and

5 (2) by striking “or radiation,” and inserting
6 “radiation, uranium,”.

7 (d) CONFORMING AMENDMENTS.—The following pro-
8 visions of such Act are amended by inserting “chronic
9 renal disease,” after “chronic silicosis,” each place such
10 term appears:

11 (1) Subsections (a)(1) and (b)(2)(A) of section
12 3631 (42 U.S.C. 7384v).

13 (2) Section 3644(a) (42 U.S.C. 7385c(a))—
14 (A) in the matter preceding paragraph (1);
15 (B) in paragraph (2)(C); and
16 (C) in the matter following paragraph
17 (2)(C).

18 **SEC. 202. COVERAGE FOR MERCURY POISONING.**

19 (a) DEFINITIONS FOR PROGRAM ADMINISTRATION.—
20 Section 3621 of the Energy Employees Occupational Ill-
21 ness Compensation Program Act of 2000 (42 U.S.C.
22 7384l), as amended by section 201(a) of this Act, is fur-
23 ther amended—

24 (1) in paragraph (1), by adding at the end the
25 following new subparagraph:

1 “(E) A covered employee with mercury poi-
2 soning.”;

3 (2) in paragraph (15), by inserting “or mercury
4 poisoning” after “chronic renal disease,”; and

5 (3) by adding at the end the following new
6 paragraph:

7 “(21) The term ‘covered employee with mercury
8 poisoning’ means an individual determined to have
9 sustained mercury poisoning in the performance of
10 duty in accordance with section 3627A.”.

11 (b) PARTICIPATION IN COMPENSATION PROGRAM.—
12 Subtitle B of that Act (42 U.S.C. 7384l et seq.) is further
13 amended by inserting after section 3627 the following new
14 section:

15 **“SEC. 3627A. MERCURY POISONING.**

16 “(a) IN GENERAL.—A Department of Energy em-
17 ployee or Department of Energy contractor employee who
18 was exposed to mercury in the performance of duty and
19 who experiences mercury poisoning shall be treated as a
20 covered employee for purposes of the compensation pro-
21 gram.

22 “(b) EXPOSURE TO MERCURY IN PERFORMANCE OF
23 DUTY.—A Department of Energy employee or Depart-
24 ment of Energy contractor employee shall, in the absence
25 of substantial evidence to the contrary, be treated as hav-

1 ing been exposed to mercury in the performance of duty
2 for purposes of subsection (a) if while employed in activi-
3 ties associated with the design, production, or testing of
4 atomic weapons, or clean-up related thereto, such em-
5 ployee was present in a Department of Energy facility
6 that—

7 “(1) contained more than 100 kilograms of
8 mercury; and

9 “(2) did not confine mercury operations to work
10 spaces with dedicated ventilation systems for the re-
11 moval of airborne toxic substances.

12 “(c) MERCURY POISONING.—A Department of En-
13 ergy employee or Department of Energy contractor em-
14 ployee shall be treated as experiencing mercury poisoning
15 for purposes of subsection (a) if such employee manifests
16 a physical, psychological, or neurological illness consistent
17 with mercury poisoning.

18 “(d) DETERMINATIONS OF MERCURY POISONING.—
19 The Secretary of Labor shall utilize evaluations, tests, or
20 other medical information obtained pursuant to section
21 3162 of the National Defense Authorization Act for Fiscal
22 Year 1993 (42 U.S.C. 7274i), and may utilize any other
23 evaluations, tests, information, or other means that the
24 Secretary considers appropriate, to determine whether a
25 Department of Energy employee or Department of Energy

1 contractor employee manifests a physical, psychological, or
2 neurological illness consistent with mercury poisoning for
3 purposes of subsection (a).”.

4 (c) OFFSET FOR CERTAIN PAYMENTS.—Section
5 3641 of such Act (42 U.S.C. 7385), as amended by section
6 201(c) of this Act, is further amended—

7 (1) by inserting “or covered employee with mer-
8 cury poisoning” after “covered employee with chron-
9 ic renal disease,”; and

10 (2) by inserting “or mercury” after “ura-
11 nium,”.

12 (d) CONFORMING AMENDMENTS.—The following pro-
13 visions of such Act, as amended by section 201(d) of this
14 Act, are further amended by inserting “mercury poi-
15 soning,” after “chronic renal disease,” each place such
16 term appears:

17 (1) Subsections (a)(1) and (b)(2)(A) of section
18 3631 (42 U.S.C. 7384v).

19 (2) Section 3644(a) (42 U.S.C. 7385c(a))—

20 (A) in the matter preceding paragraph (1);

21 (B) in paragraph (2)(C); and

22 (C) in the matter following paragraph
23 (2)(C).

1 **SEC. 203. COVERAGE FOR LUNG CANCER IN COVERED BE-**
 2 **RYLLIUM EMPLOYEES.**

3 Section 3621(8) of the Energy Employees Occupa-
 4 tional Illness Compensation Program Act of 2000 (42
 5 U.S.C. 7384l(8)) is amended—

6 (1) by redesignating subparagraph (C) as sub-
 7 paragraph (D) and, in that subparagraph, by strik-
 8 ing “or (B)” and inserting “(B), or (C)”; and

9 (2) by inserting after subparagraph (B) the fol-
 10 lowing new subparagraph:

11 “(C) Lung cancer, if such cancer occurs
 12 within 5 years after the date on which the em-
 13 ployee is determined to have been first exposed
 14 to beryllium in the performance of duty in ac-
 15 cordance with section 3623(a).”.

16 **SEC. 204. CLARIFICATION OF SPECIAL EXPOSURE COHORT**
 17 **EXPANSION PROCEDURE.**

18 (a) **AUTOMATIC DESIGNATION BY LAPSE OF TIME.**—
 19 Section 3626 of the Energy Employees Occupational Ill-
 20 ness Compensation Program Act of 2000 (42 U.S.C.
 21 7384q) is amended—

22 (1) by redesignating subsection (c) as sub-
 23 section (d); and

24 (2) by inserting after subsection (b) the fol-
 25 lowing new subsection:

1 “(c) AUTOMATIC DESIGNATION BY LAPSE OF
2 TIME.—Notwithstanding subsection (b), if a class of em-
3 ployees described in subsection (a)(1) petitions to be treat-
4 ed as members of the Special Exposure Cohort under sub-
5 section (a)(3), the members of that class shall, as of the
6 expiration of the 180-day period beginning with the date
7 on which the petition was received, be deemed to be mem-
8 bers of the Special Exposure Cohort for purposes of the
9 compensation program, unless before the expiration of
10 that period the petition is denied.”.

11 (b) INDIVIDUAL PRESUMPTION BY LAPSE OF
12 TIME.—Section 3623 of that Act (42 U.S.C. 7384n) is
13 amended by adding at the end of subsection (d) the fol-
14 lowing new paragraph:

15 “(3) An estimate referred to in paragraph (1) shall
16 be completed by the Secretary of Health and Human Serv-
17 ices within 150 days after the date on which the Depart-
18 ment of Labor submits to the Secretary of Health and
19 Human Services the claim for which the estimate is re-
20 quired. If such estimate cannot be completed before the
21 expiration of such period, it shall be deemed, for purposes
22 of section 3626(b)(1), that it is not feasible to estimate
23 with sufficient accuracy the radiation dose received by the
24 individual to which the claim relates.”.

1 **SEC. 205. CORRECTING PROBLEMS IN THE**
2 **RADIOEPIDEMIOLOGIC MODEL FOR DETER-**
3 **MINING COMPENSATION.**

4 Section 3623(c)(3) of the Energy Employees Occupa-
5 tional Illness Compensation Program Act of 2000 (42
6 U.S.C. 7384n(c)(3)) is amended—

7 (1) in subparagraph (B), by striking “and” at
8 the end;

9 (2) in subparagraph (C)—

10 (A) by striking “past health-related activi-
11 ties (such as smoking),”; and

12 (B) by striking the period at the end and
13 inserting “; and”; and

14 (3) by adding at the end the following new sub-
15 paragraph:

16 “(D) provide the benefit of the doubt to
17 the claimant wherever there is reasonable sci-
18 entific evidence to justify compensation, includ-
19 ing such factors as dose rate effectiveness of
20 low dose radiation, bias due to selection effects,
21 and increasing risks from radiation with in-
22 creasing age at exposure.”.

23 **SEC. 206. ADDITIONAL SPECIFIED CANCERS.**

24 (a) REPORT.—The National Institute for Occupa-
25 tional Safety and Health shall prepare a report that iden-
26 tifies each type of cancer (other than specified cancers,

1 as already defined in section 3621(17) of the Energy Em-
2 ployees Occupational Illness Compensation Program Act
3 of 2000 (42 U.S.C. 7384l(17))) that the Institute has de-
4 termined from epidemiology studies of workers or atomic
5 bomb survivors to be radiosensitive and, for each cancer
6 so identified, provides a basis for that determination. Not
7 later than 90 days after the date of the enactment of this
8 Act, the Institute shall submit the report to Congress, the
9 Secretary of Labor, and the Advisory Board on Radiation
10 and Worker Health, and shall publish the report in the
11 Federal Register, for public review and comment.

12 (b) FINAL REPORT.—Not later than 180 days after
13 the date of the enactment of this Act, the Institute shall
14 submit to Congress, the Secretary of Labor, the Secretary
15 of Health and Human Services, and the Advisory Board
16 on Radiation and Worker Health a final report, taking
17 into account comments received in response to the report
18 under subsection (a), that identifies each type of cancer
19 that is appropriate to be deemed an additional specified
20 cancer for purposes of the Energy Employees Occupa-
21 tional Illness Compensation Program Act of 2000.

1 **SEC. 207. COVERAGE FOR INDIVIDUALS EMPLOYED BY**
2 **ATOMIC WEAPONS EMPLOYERS OR BERYL-**
3 **LIUM EMPLOYEES DURING PERIOD OF RE-**
4 **SIDUAL CONTAMINATION.**

5 Paragraphs (3) and (7)(C) of section 3621 of the En-
6 ergy Employees Occupational Illness Compensation Pro-
7 gram Act of 2000 (42 U.S.C. 7384l) are each amended
8 by inserting before the period at the end the following:
9 “, or during a period when, as specified by the National
10 Institute for Occupational Safety and Health in the re-
11 ports required by section 3151(b)(2)(A)(ii) of the National
12 Defense Authorization Act for Fiscal Year 2002 (42
13 U.S.C. 7384 note) or any subsequent report, significant
14 contamination remained in a facility of the employer after
15 such facility discontinued activities relating to the produc-
16 tion of nuclear weapons and such contamination could
17 have caused or substantially contributed to the cancer of
18 a covered employee with cancer or a covered beryllium ill-
19 ness, as the case may be”.

20 **SEC. 208. COORDINATION OF COMPENSATION AND BENE-**
21 **FITS FOR CANCER WITH COMPENSATION AND**
22 **BENEFITS UNDER OTHER RADIATION COM-**
23 **PENSATION LAWS.**

24 (a) COORDINATION.—Section 3651 of the Energy
25 Employees Occupational Illness Compensation Program

1 Act of 2000 (42 U.S.C. 7385j) is amended to read as fol-
2 lows:

3 **“SEC. 3651. COORDINATION WITH OTHER RADIATION COM-
4 PENSATION LAWS.**

5 “(a) IN GENERAL.—Except in accordance with sec-
6 tion 3630 and except as provided in subsection (b), an
7 individual may not receive compensation or benefits under
8 the compensation program for cancer and also receive
9 compensation under either of the following:

10 “(1) The Radiation Exposure Compensation
11 Act (42 U.S.C. 2210 note).

12 “(2) Section 112(c) of title 38, United States
13 Code.

14 “(b) OFFSET.—A payment of compensation may be
15 made to an individual, or the survivor of an individual,
16 under subtitle B for cancer for which payment has been
17 made under the Radiation Exposure Compensation Act,
18 but the amount of such payment shall be offset by the
19 amount of any payment made pursuant to section
20 4(a)(1)(A)(i)(III) or 4(a)(2)(C) of that Act on account of
21 such cancer.”.

22 (b) EFFECTIVE DATE.—The amendment made by
23 subsection (a) shall take effect on the date of the enact-
24 ment of this Act.

1 **SEC. 209. TECHNICAL CORRECTIONS.**

2 (a) FINDINGS.—Section 3602(a)(6) of the Energy
3 Employees Occupational Illness Compensation Program
4 Act of 2000 (42 U.S.C. 7384(a)(6)) is amended by strik-
5 ing the second sentence and inserting the following: “Fur-
6 thermore, studies indicate that 98 percent of radiation-
7 induced cancers within the Department of Energy nuclear
8 weapons complex occur at dose levels below the existing
9 thresholds for establishing proof of causation. Those stud-
10 ies further indicate that workers at Department of Energy
11 sites were exposed to levels of silica, heavy metals, and
12 toxic substances that will lead, contribute to, or aggravate
13 illnesses or diseases.”.

14 (b) PAYMENTS IN THE CASE OF DECEASED PER-
15 SONS.—Section 3628(e)(3)(A) (42 U.S.C. 7384s(e)(3)(A))
16 of such Act is amended by inserting before the semicolon
17 the following: “, or a wife or husband of that individual
18 who was married to that individual immediately before the
19 death of that individual and filed, on or before December
20 28, 2001, a claim in that capacity under this subtitle”.

1 **TITLE III—ADMINISTRATIVE AS-**
2 **SISTANCE FOR CLAIMANTS**
3 **UNDER EITHER SUBTITLE OF**
4 **ACT**

5 **SEC. 301. PROVIDING ADMINISTRATIVE RELIEF IN CASES**
6 **WHERE MEDICAL RECORDS ARE NOT AVAIL-**
7 **ABLE.**

8 Subtitle C of the Energy Employees Occupational Ill-
9 ness Compensation Program Act of 2000 (42 U.S.C. 7385
10 et seq.) is amended by adding at the end the following
11 new section:

12 **“SEC. 3652. PROOF WHEN MEDICAL RECORDS NOT AVAIL-**
13 **ABLE.**

14 “For any claim under any subtitle of this title, if the
15 Department of Energy, a contractor of the Department
16 of Energy (including a DOE contractor, as defined in sec-
17 tion 3661), an atomic energy weapons employer, or a be-
18 ryllium vendor is unable to locate medical records nec-
19 essary for the processing of that claim that it possessed
20 or was required to possess within 120 days after receiving
21 a written request from the claimant to locate such records,
22 an affidavit of the employee as to the contents of those
23 records, together with any medical records possessed by
24 the claimant or otherwise made available, shall be consid-

1 ered in determining the medical evidence relating to the
2 claim.”.

3 **SEC. 302. RESOURCE CENTERS AND OUTREACH PROGRAMS.**

4 Subtitle C of such Act is further amended by adding
5 after section 3652 (as added by section 301) the following
6 new section:

7 **“SEC. 3653. RESOURCE CENTERS AND OUTREACH PRO-**
8 **GRAMS.**

9 “(a) **REQUIREMENT.**—The Secretary of Labor and
10 the Secretary of Energy shall maintain resource centers
11 and outreach programs relating to the availability of bene-
12 fits under any subtitle of this title. Such centers shall be
13 staffed and maintained proportional to the demand for as-
14 sistance and follow-up.

15 “(b) **UNDERSERVED AREAS.**—The resource centers
16 required by subsection (a) shall include one or more re-
17 source centers in each underserved area near a Depart-
18 ment of Energy facility.

19 “(c) **DURATION.**—(1) Except as provided in para-
20 graph (2), such centers and programs shall be maintained
21 through September 30, 2004.

22 “(2) In the case of a resource center in an under-
23 served area referred to in subsection (b), such center shall
24 be maintained until demand is exhausted.”.

1 **SEC. 303. OFFICE OF THE OMBUDSMAN.**

2 (a) IN GENERAL.—Subtitle C of such Act is further
3 amended by adding after section 3653 (as added by sec-
4 tion 302) the following new section:

5 **“SEC. 3654. OFFICE OF THE OMBUDSMAN.**

6 “(a) ESTABLISHMENT.—There is established within
7 the Office of the Secretary of Labor an office, to be known
8 as the Office of the Ombudsman for Occupational Illness
9 Compensation (in this section referred to as the ‘Office’),
10 to assist claimants under this title.

11 “(b) OMBUDSMAN.—

12 “(1) APPOINTMENT.—The head of the Office
13 shall be the Ombudsman. The Ombudsman shall be
14 appointed by the Secretary of Labor, after consulta-
15 tion with claimants or claimant advocates, worker
16 compensation experts, and members of the advisory
17 committees to Federal agencies implementing this
18 title, from among individuals with at least one of the
19 following qualifications:

20 “(A) Experience or training as an advo-
21 cate.

22 “(B) Training as a health care provider
23 with knowledge of occupational illness and dis-
24 ease.

25 “(C) Experience in assisting claimants
26 with worker compensation claims.

1 “(2) REMOVAL.—The Secretary of Labor may
2 remove the Ombudsman for just cause and shall, in
3 such a case, communicate to Congress the cir-
4 cumstances forming the basis of such just cause.

5 “(c) DUTIES.—The duties of the Ombudsman are as
6 follows:

7 “(1) To direct the operations of the Office.

8 “(2) To report to the Secretary of Labor with
9 respect to the activities of the Office.

10 “(3) To assist claimants under this title with
11 claims filed with the Department of Labor or the
12 Department of Energy.

13 “(4) To receive and investigate complaints or
14 inquiries regarding the status of a claim under this
15 title.

16 “(5) To provide claimants under this title with
17 contacts at agencies with responsibilities under this
18 title.

19 “(6) To offer informal advice on options avail-
20 able to claimants under this title.

21 “(7) To identify whether claimants under this
22 title are encountering systematic difficulties or
23 delays with respect to claims under this title, and to
24 make recommendations for improvement, with re-

1 spect to such claims, in speed, equity, fairness, or
2 compliance with statutes and regulations.

3 “(8) With respect to individuals filing com-
4 plaints or requests for information under this title—

5 “(A) to respond within 30 days after re-
6 ceiving such a complaint or request;

7 “(B) to maintain reasonable communica-
8 tion with the individual until the matter is re-
9 solved; and

10 “(C) to maintain, as confidential and privi-
11 leged, the identity of the individual, unless such
12 confidentiality or privilege is otherwise waived.

13 “(9) To maintain and publish a telephone num-
14 ber, facsimile number, electronic mail address, and
15 post office address for the Office.

16 “(d) LIMITATION.—The Ombudsman may not re-
17 verse or make decisions regarding any claim under this
18 title.

19 “(e) AUTHORITY.—The Ombudsman is authorized to
20 carry out the following activities:

21 “(1) Investigate questions regarding a claim
22 under this title, or procedures or systems for proc-
23 essing such claims, with the offices of the Depart-
24 ment of Energy, Department of Labor, and Depart-
25 ment of Health and Human Services (including the

1 National Institute for Occupational Safety and
2 Health), and any contractor of any such department,
3 that has responsibility under this title.

4 “(2) Contract for expert advice with respect to
5 the Ombudsman’s responsibilities under this title.

6 “(3) Access any material relating to a matter
7 under investigation under paragraph (1).

8 “(4) Request explanations from any Federal
9 agency with responsibilities under this title about the
10 activities of that agency under this title.

11 “(5) Enter and inspect places in order to carry
12 out an investigation under paragraph (1).

13 “(6) Refer any matter within the responsibility
14 of the Ombudsman to an appropriate inspector gen-
15 eral.

16 “(f) COOPERATION WITH FEDERAL AGENCIES.—
17 Federal agencies and the officials responsible for the im-
18 plementation of this title shall assist the Ombudsman in
19 carrying out this section and shall promptly make avail-
20 able to the Ombudsman all information requested by the
21 Ombudsman. The Ombudsman shall cooperate with such
22 agencies and officials.

23 “(g) COORDINATION.—The Ombudsman shall coordi-
24 nate the activities of the Office with the activities of the
25 Secretaries of Energy, Health and Human Services, and

1 Labor in carrying out this title. Such coordination shall
2 be carried out pursuant to memoranda of agreement en-
3 tered into among and between the Ombudsman and such
4 Secretaries.

5 “(h) ANNUAL REPORT.—Not later than January 1
6 of each year, the Ombudsman shall submit a report on
7 this title to the President, Congress, and the Secretaries
8 of Energy, Health and Human Services, and Labor. No
9 official outside the Office may require such outside offi-
10 cial’s approval before submitting the report. The report
11 shall contain the following:

12 “(1) The number and types of complaints,
13 grievances, and requests for assistance received by
14 the Ombudsman in the previous year.

15 “(2) Identification of the most common difficul-
16 ties encountered by claimants under this title.

17 “(3) Recommended changes to the administra-
18 tive practices of the Federal agencies with responsi-
19 bility under this title.

20 “(4) Recommended legislative changes that may
21 be appropriate to mitigate problems with the imple-
22 mentation of this title.

23 “(i) PUBLICATION.—The Secretaries of Energy,
24 Health and Human Services, and Labor shall publicize the
25 availability of the services of the Office.

1 “(j) SEPARATE LINE ITEM.—The budget of the
2 President under section 1105(a) of title 31, United States
3 Code, shall include funding for the Office as a separate
4 line item.

5 “(k) AUTHORIZATION OF APPROPRIATIONS.—There
6 are authorized to be appropriated to carry out this section
7 \$800,000 for each of fiscal years 2003 through 2007.”.

8 (b) INITIAL APPOINTMENT.—Not later than 60 days
9 after the date of the enactment of this Act, the Secretary
10 of Labor shall appoint the Ombudsman required by sec-
11 tion 3654 of the Energy Employees Occupational Illness
12 Compensation Program Act of 2000 (as added by sub-
13 section (a)).

14 (c) MEMORANDA OF AGREEMENT.—Not later than
15 90 days after the date of the enactment of this Act, the
16 Ombudsman shall enter into the memoranda of agreement
17 required by such section 3654 (as added by subsection
18 (a)).

○