

112TH CONGRESS
1ST SESSION

S. 545

To amend the Energy Employees Occupational Illness Compensation Program Act of 2000 to strengthen the quality control measures in place for part B lung disease claims and part E processes with independent reviews.

IN THE SENATE OF THE UNITED STATES

MARCH 10, 2011

Mr. UDALL of Colorado 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 strengthen the quality control measures in place for part B lung disease claims and part E processes with independent reviews.

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. ADVISORY BOARD ON TOXIC SUBSTANCES AND**
4 **WORKER HEALTH.**

5 (a) ESTABLISHMENT.—Subtitle B of the Energy Em-
6 ployees Occupational Illness Compensation Program Act
7 of 2000 (42 U.S.C. 7384l et seq.) is amended by adding
8 at the end the following:

1 **“SEC. 3632. ADVISORY BOARD ON TOXIC SUBSTANCES AND**
2 **WORKER HEALTH.**

3 “(a) ESTABLISHMENT.—

4 “(1) IN GENERAL.—Not later than 120 days
5 after the date of the enactment of this section, the
6 President shall establish and appoint an Advisory
7 Board on Toxic Substances and Worker Health (re-
8 ferred to in this section as the ‘Board’).

9 “(2) CONSULTATION ON APPOINTMENTS.—In
10 appointing members to the Board under paragraph
11 (1), the President shall consult with organizations
12 with expertise on worker health issues in order to
13 ensure that the membership of the Board reflects a
14 proper balance among perspectives from the sci-
15 entific, medical, legal, workers, and worker advocate
16 communities.

17 “(3) CHAIRPERSON.—The President shall des-
18 ignate a chairperson of the Board from among its
19 members.

20 “(b) DUTIES.—The Board shall—

21 “(1) provide advice to the President concerning
22 the review and approval of the Department of Labor
23 site exposure matrix;

24 “(2) conduct periodic peer reviews of, and ap-
25 prove, medical guidance for part E claims examiners

1 with respect to the weighing of a claimant’s medical
2 evidence;

3 “(3) obtain periodic expert reviews of medical
4 evidentiary requirements for part B claims related to
5 lung diseases;

6 “(4) provide oversight over consulting physi-
7 cians and reports to ensure quality, objectivity, and
8 consistency of the consultant physicians’ work; and

9 “(5) coordinate where applicable exchanges of
10 data and findings with the Advisory Board on Radi-
11 ation and Worker Health (under section 3624).

12 “(c) STAFF AND POWERS.—

13 “(1) IN GENERAL.—The President shall ap-
14 point a staff to facilitate the work of the Board. The
15 staff of the Board shall be headed by a Director who
16 shall be appointed under subchapter VIII of chapter
17 33 of title 5, United States Code.

18 “(2) FEDERAL AGENCY PERSONNEL.—The
19 President may authorize the detail of employees of
20 Federal agencies to the Board as necessary to enable
21 the Board to carry out its duties under this section.
22 The detail of such personnel may be on a non-reim-
23 bursable basis.

1 “(3) POWERS.—The Board shall have same
2 powers that the Advisory Board has under section
3 3624.

4 “(d) EXPENSES.—The members of the Board, other
5 than full-time employees of the United States, while at-
6 tending meetings of the Board or while otherwise serving
7 at the request of the President, and while serving away
8 from their homes or regular place of business, shall be
9 allowed travel and meal expenses, including per diem in
10 lieu of subsistence (as authorized by section 5703 of title
11 5, United States Code) for individuals in the Federal Gov-
12 ernment serving without pay.

13 “(e) SECURITY CLEARANCES.—

14 “(1) REQUIREMENT.—The Secretary of Energy
15 shall ensure that the members and staff of the
16 Board, and the contractors performing work in sup-
17 port of the Board, are afforded the opportunity to
18 apply for a security clearance for any matter for
19 which such a clearance is appropriate. The Secretary
20 should, not later than 180 days after receiving a
21 completed application for such a clearance, make a
22 determination whether or not the individual con-
23 cerned is eligible for the clearance.

24 “(2) BUDGET JUSTIFICATION.—For fiscal year
25 2012, and each fiscal year thereafter, the Secretary

1 of Energy shall include in the budget justification
2 materials submitted to Congress in support of the
3 Department of Energy budget for that fiscal year
4 (as submitted with the budget of the President
5 under section 1105(a) of title 31, United States
6 Code) a report specifying the number of applications
7 for security clearances under this subsection, the
8 number of such applications granted, and the num-
9 ber of such applications denied.

10 “(f) INFORMATION.—The Secretary of Energy shall,
11 in accordance with law, provide to the Board and the con-
12 tractors of the Board, access to any information that the
13 Board considers relevant to carry out its responsibilities
14 under this section, including information such as re-
15 stricted data (as defined in section 2014(y)) and informa-
16 tion covered by the Privacy Act.”.

17 (b) DEPARTMENT OF LABOR RESPONSE TO THE OF-
18 FICE OF THE OMBUDSMAN ANNUAL REPORT.—Section
19 3686 of the Energy Employees Occupational Illness Com-
20 pensation Program Act of 2000 (42 U.S.C. 7385s–15) is
21 amended—

22 (1) by redesignating subsection (h) as sub-
23 section (i); and

24 (2) by inserting after subsection (g), the fol-
25 lowing:

1 “(h) RESPONSE TO REPORT.—Not later than 90 days
2 after the publication of the annual report under subsection
3 (e), the Department of Labor shall submit an answer in
4 writing on whether the Department agrees or disagrees
5 with the specific issues raised by the Ombudsman, if the
6 Department agrees, on the actions to be taken to correct
7 the problems identified by the Ombudsman, and if the De-
8 partment does not agree, on the reasons therefore. The
9 Department of Labor shall post such answer on the public
10 Internet website of the Department.”.

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