

(B) by striking “and” at the end;  
 (2) by redesignating paragraph (2) as paragraph (3); and  
 (3) by inserting after paragraph (1) the following new paragraph (2):

“(2) notwithstanding paragraph (1) and the agreement under subsection (e), convey, without consideration, to the Board of Education of the Los Alamos Public Schools, New Mexico, within the County, fee title to the parcels of land identified by the Department of Energy as Parcel A-8 and Parcel A-15-1 that are currently located in Technical Area-21 of Los Alamos National Laboratory upon the entry of Los Alamos Public Schools and the County into an agreement for the use of the parcel of land identified as Parcel A-8; and”.

## **Subtitle E—Energy Employees Occupational Illness Compensation Program**

### **SEC. 3161. CONTRACTOR EMPLOYEE COMPENSATION.**

The Energy Employees Occupational Illness Compensation Program Act of 2000 (title XXXVI of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (as enacted into law by Public Law 106-398)) is amended by adding after subtitle D (42 U.S.C. 7385o) the following new title:

### **“Subtitle E—Contractor Employee Compensation**

42 USC 7385s.

#### **“SEC. 3671. DEFINITIONS.**

“In this subtitle:

“(1) The term ‘covered DOE contractor employee’ means any Department of Energy contractor employee determined under section 3675 to have contracted a covered illness through exposure at a Department of Energy facility.

“(2) The term ‘covered illness’ means an illness or death resulting from exposure to a toxic substance.

“(3) The term ‘Secretary’ means the Secretary of Labor.

42 USC 7385s-1.

#### **“SEC. 3672. COMPENSATION TO BE PROVIDED.**

“Subject to the other provisions of this subtitle:

“(1) **CONTRACTOR EMPLOYEES.**—A covered DOE contractor employee shall receive contractor employee compensation under this subtitle in accordance with section 3673.

“(2) **SURVIVORS.**—After the death of a covered DOE contractor employee, compensation referred to in paragraph (1) shall not be paid. Instead, the survivor of that employee shall receive compensation as follows:

“(A) Except as provided in subparagraph (B), the survivor of that employee shall receive contractor employee compensation under this subtitle in accordance with section 3674.

“(B) In a case in which the employee’s death occurred after the employee applied under this subtitle and before compensation was paid under paragraph (1), and the employee’s death occurred from a cause other than the

covered illness of the employee, the survivor of that employee may elect to receive, in lieu of compensation under subparagraph (A), the amount of contractor employee compensation that the employee would have received in accordance with section 3673 if the employee's death had not occurred before compensation was paid under paragraph (1).

**“SEC. 3673. COMPENSATION SCHEDULE FOR CONTRACTOR EMPLOYEES.** 42 USC 7385s-2.

“(a) COMPENSATION PROVIDED.—The amount of contractor employee compensation under this subtitle for a covered DOE contractor employee shall be the sum of the amounts determined under paragraphs (1) and (2), as follows:

“(1) IMPAIRMENT.—(A) The Secretary shall determine—

“(i) the minimum impairment rating of that employee, expressed as a number of percentage points; and

“(ii) the number of those points that are the result of any covered illness contracted by that employee through exposure to a toxic substance at a Department of Energy facility.

“(B) The employee shall receive an amount under this paragraph equal to \$2,500 multiplied by the number referred to in clause (ii) of subparagraph (A).

“(2) WAGE LOSS.—(A) The Secretary shall determine—

“(i) the calendar month during which the employee first experienced wage loss as the result of any covered illness contracted by that employee through exposure to a toxic substance at a Department of Energy facility;

“(ii) the average annual wage of the employee for the 36-month period immediately preceding the calendar month referred to in clause (i), excluding any portions of that period during which the employee was unemployed; and

“(iii) beginning with the calendar year that includes the calendar month referred to in clause (i), through and including the calendar year during which the employee attained normal retirement age (for purposes of the Social Security Act)—

“(I) the number of calendar years during which, as the result of any covered illness contracted by that employee through exposure to a toxic substance at a Department of Energy facility, the employee's annual wage exceeded 50 percent of the average annual wage determined under clause (ii), but did not exceed 75 percent of the average annual wage determined under clause (ii); and

“(II) the number of calendar years during which, as the result of any covered illness contracted by that employee through exposure to a toxic substance at a Department of Energy facility, the employee's annual wage did not exceed 50 percent of the average annual wage determined under clause (ii).

“(B) The employee shall receive an amount under this paragraph equal to the sum of—

“(i) \$10,000 multiplied by the number referred to in clause (iii)(I) of subparagraph (A); and

“(ii) \$15,000 multiplied by the number referred to in clause (iii)(II) of subparagraph (A).

“(b) DETERMINATION OF MINIMUM IMPAIRMENT RATING.—For purposes of subsection (a), a minimum impairment rating shall be determined in accordance with the American Medical Association’s Guides to the Evaluation of Permanent Impairment.

42 USC 7385s-3.

**“SEC. 3674. COMPENSATION SCHEDULE FOR SURVIVORS.**

“(a) CATEGORIES OF COMPENSATION.—The amount of contractor employee compensation under this subtitle for the survivor of a covered DOE contractor employee shall be determined as follows:

“(1) CATEGORY ONE.—The survivor shall receive the amount of \$125,000, if the Secretary determines that—

“(A) the employee would have been entitled to compensation under section 3675 for a covered illness; and

“(B) it is at least as likely as not that exposure to a toxic substance at a Department of Energy facility was a significant factor in aggravating, contributing to, or causing the death of such employee.

“(2) CATEGORY TWO.—The survivor shall receive the amount of \$150,000, if paragraph (1) applies to the employee and the Secretary also determines that there was an aggregate period of not less than 10 years, before the employee attained normal retirement age (for purposes of the Social Security Act), during which, as the result of any covered illness contracted by that employee through exposure to a toxic substance at a Department of Energy facility, the employee’s annual wage did not exceed 50 percent of the average annual wage of that employee, as determined under section 3673(a)(2)(A)(ii).

“(3) CATEGORY THREE.—The survivor shall receive the amount of \$175,000, if paragraph (1) applies to the employee and the Secretary also determines that there was an aggregate period of not less than 20 years, before the employee attained normal retirement age (for purposes of the Social Security Act), during which, as the result of any covered illness contracted by that employee through exposure to a toxic substance at a Department of Energy facility, the employee’s annual wage did not exceed 50 percent of the average annual wage of that employee, as determined under section 3673(a)(2)(A)(ii).

“(b) ONE AMOUNT ONLY.—The survivor of a covered DOE contractor employee to whom more than one amount under subsection (a) applies shall receive only the highest such amount.

“(c) DETERMINATION AND ALLOCATION OF SHARES.—The amount under subsection (a) shall be paid only as follows:

“(1) If a covered spouse is alive at the time of payment, such payment shall be made to such surviving spouse.

“(2) If there is no covered spouse described in paragraph (1), such payment shall be made in equal shares to all covered children who are alive at the time of payment.

“(3) Notwithstanding the other provisions of this subsection, if there is—

“(A) a covered spouse described in paragraph (1); and

“(B) at least one covered child of the employee who is living at the time of payment and who is not a recognized natural child or adopted child of such covered spouse, then half of such payment shall be made to such covered spouse, and the other half of such payment shall be made

in equal shares to each covered child of the employee who is living at the time of payment.

“(d) DEFINITIONS.—In this section:

“(1) The term ‘covered spouse’ means a spouse of the employee who was married to the employee for at least one year immediately before the employee’s death.

“(2) The term ‘covered child’ means a child of the employee who, as of the employee’s death—

“(A) had not attained the age of 18 years;

“(B) had not attained the age of 23 years and was a full-time student who had been continuously enrolled as a full-time student in one or more educational institutions since attaining the age of 18 years; or

“(C) had been incapable of self-support.

“(3) The term ‘child’ includes a recognized natural child, a stepchild who lived with an individual in a regular parent-child relationship, and an adopted child.

**“SEC. 3675. DETERMINATIONS REGARDING CONTRACTION OF COVERED ILLNESSES.** 42 USC 7385s-4.

“(a) CASES DETERMINED UNDER SUBTITLE B.—A determination under subtitle B that a Department of Energy contractor employee is entitled to compensation under that subtitle for an occupational illness shall be treated for purposes of this subtitle as a determination that the employee contracted that illness through exposure at a Department of Energy facility.

“(b) CASES DETERMINED UNDER FORMER SUBTITLE D.—In the case of a covered illness of an employee with respect to which a panel has made a positive determination under section 3661(d) and the Secretary of Energy has accepted that determination under section 3661(e)(2), or with respect to which a panel has made a negative determination under section 3661(d) and the Secretary of Energy has found significant evidence to the contrary under section 3661(e)(2), that determination shall be treated for purposes of this subtitle as a determination that the employee contracted the covered illness through exposure at a Department of Energy facility.

“(c) OTHER CASES.—(1) In any other case, a Department of Energy contractor employee shall be determined for purposes of this subtitle to have contracted a covered illness through exposure at a Department of Energy facility if—

“(A) it is at least as likely as not that exposure to a toxic substance at a Department of Energy facility was a significant factor in aggravating, contributing to, or causing the illness; and

“(B) it is at least as likely as not that the exposure to such toxic substance was related to employment at a Department of Energy facility.

“(2) A determination under paragraph (1) shall be made by the Secretary.

“(d) APPLICATIONS BY SPOUSES AND CHILDREN.—If a spouse or child of a Department of Energy contractor employee applies for benefits under this subtitle, the Secretary shall make a determination under this section with respect to that employee without regard to whether the spouse is a ‘covered spouse’, or the child is a ‘covered child’, under this subtitle.

42 USC 7385s-5. **“SEC. 3676. APPLICABILITY TO CERTAIN URANIUM EMPLOYEES.**

“(a) IN GENERAL.—This subtitle shall apply to—

“(1) a section 5 payment recipient who contracted a section 5 illness through a section 5 exposure at a section 5 facility, or

“(2) a section 5 uranium worker determined under section 3675(c) to have contracted a covered illness through exposure to a toxic substance at a section 5 mine or mill,

(or to the survivor of that employee, as applicable) on the same basis as it applies to a Department of Energy contractor employee determined under section 3675 to have contracted a covered illness through exposure to a toxic substance at a Department of Energy facility (or to the survivor of that employee, as applicable).

“(b) DEFINITIONS.—In this section:

“(1) The term ‘section 5 payment recipient’ means an individual who receives, or has received, \$100,000 under section 5 of the Radiation Exposure Compensation Act (42 U.S.C. 2210 note) for a claim made under that Act.

“(2) The terms ‘section 5 exposure’, ‘section 5 facility’, and ‘section 5 illness’ mean the exposure, facility, and illness, respectively, to which an individual’s status as a section 5 payment recipient relates.

“(3) The term ‘section 5 uranium worker’ means an individual to whom subsection (a)(1)(A)(i) of section 5 of the Radiation Exposure Compensation Act applies (whether directly or by reason of subsection (a)(2)).

“(4) The term ‘section 5 mine or mill’ means the mine or mill to which an individual’s status as a section 5 uranium worker relates.

42 USC 7385s-6. **“SEC. 3677. ADMINISTRATIVE AND JUDICIAL REVIEW.**

“(a) JUDICIAL REVIEW.—A person adversely affected or aggrieved by a final decision of the Secretary under this subtitle may review that order in the United States district court in the district in which the injury was sustained, the employee lives, the survivor lives, or the District of Columbia, by filing in such court within 60 days after the date on which that final decision was issued a written petition praying that such decision be modified or set aside. The person shall also provide a copy of the petition to the Secretary. Upon such filing, the court shall have jurisdiction over the proceeding and shall have the power to affirm, modify, or set aside, in whole or in part, such decision. The court may modify or set aside such decision only if the court determines that such decision was arbitrary and capricious.

“(b) ADMINISTRATIVE REVIEW.—The Secretary shall ensure that recommended decisions of the Secretary with respect to a claim under this subtitle are subject to administrative review. The Secretary shall prescribe regulations for carrying out such review or shall apply to this subtitle the regulations applicable to recommended decisions under subtitle B.

42 USC 7385s-7. **“SEC. 3678. PHYSICIANS SERVICES.**

“(a) IN GENERAL.—The Secretary may utilize the services of physicians for purposes of making determinations under this subtitle.

“(b) PHYSICIANS.—Any physicians whose services are utilized under subsection (a) of this section shall possess appropriate expertise and experience in the evaluation and determination of the extent of permanent physical impairments or in the evaluation and diagnosis of illnesses or deaths aggravated, contributed to, or caused by exposure to toxic substances.

“(c) ARRANGEMENT.—The Secretary may secure the services of physicians utilized under subsection (a) of this section through the appointment of physicians or by contract.

**“SEC. 3679. MEDICAL BENEFITS.**

42 USC 7385s-8.

“A covered DOE contractor employee shall be furnished medical benefits specified in section 3629 for the covered illness to the same extent, and under the same conditions and limitations, as an individual eligible for medical benefits under that section is furnished medical benefits under that section.

**“SEC. 3680. ATTORNEY FEES.**

42 USC 7385s-9.

“Section 3648 shall apply to a payment under this subtitle to the same extent that it applies to a payment under subtitle B.

**“SEC. 3681. ADMINISTRATIVE MATTERS.**

42 USC  
7385s-10.

“(a) IN GENERAL.—The Secretary shall administer this subtitle.

“(b) CONTRACT AUTHORITY.—The Secretary may enter into contracts with appropriate persons and entities to administer this subtitle.

“(c) RECORDS.—(1)(A) The Secretary of Energy shall provide to the Secretary all records, files, and other data, whether paper, electronic, imaged, or otherwise, developed by the Secretary of Energy that are applicable to the administration of this subtitle, including records, files, and data on facility industrial hygiene, employment of individuals or groups, exposure and medical records, and claims applications.

“(B) In providing records, files, and other data under this paragraph, the Secretary of Energy shall preserve the current organization of such records, files, and other data, and shall provide such description and indexing of such records, files, and other data as the Secretary considers appropriate to facilitate their use by the Secretary.

“(2) The Secretary of Energy and the Secretary shall jointly undertake such actions as are appropriate to retrieve records applicable to the claims of Department of Energy contractor employees for contractor employee compensation under this subtitle, including employment records, records of exposure to beryllium, radiation, silica, or other toxic substances, and records regarding medical treatment.

“(d) INFORMATION.—At the request of the Secretary, the Secretary of Energy and any contractor who employed a Department of Energy contractor employee shall, within time periods specified by the Secretary, provide to the Secretary and to the employee information or documents in response to the request.

“(e) REGULATIONS.—The Secretary shall prescribe regulations necessary for the administration of this subtitle. The initial regulations shall be prescribed not later than 210 days after the date of the enactment of this subtitle. The Secretary may prescribe interim final regulations necessary to meet the deadlines specified in this subtitle.

Deadline.

“(f) TRANSITION PROVISIONS.—(1) The Secretary shall commence the administration of the provisions of this subtitle not later than 210 days after the date of the enactment of this subtitle.

“(2) Until the commencement of the administration of this subtitle, the Department of Energy Physicians Panels appointed pursuant to subtitle D shall continue to consider and issue determinations concerning any cases pending before such Panels immediately before the date of the enactment of this subtitle.

“(3) The Secretary shall take such actions as are appropriate to identify other activities under subtitle D that will continue until the commencement of the administration of subtitle E.

“(g) PREVIOUS APPLICATIONS.—Upon the commencement of the administration of this subtitle, any application previously filed with the Secretary of Energy pursuant to subtitle D shall be considered to have been filed with the Secretary as a claim for benefits pursuant to this subtitle.

42 USC  
7385s-11.

**“SEC. 3682. COORDINATION OF BENEFITS WITH RESPECT TO STATE WORKERS COMPENSATION.**

“(a) IN GENERAL.—An individual who has been awarded compensation under this subtitle, and who has also received benefits from a State workers compensation system by reason of the same covered illness, shall receive compensation specified in this subtitle reduced by the amount of any workers compensation benefits, other than medical benefits and benefits for vocational rehabilitation, that the individual has received under the State workers compensation system by reason of the covered illness, after deducting the reasonable costs, as determined by the Secretary, of obtaining those benefits under the State workers compensation system.

“(b) WAIVER.—The Secretary may waive the provisions of subsection (a) if the Secretary determines that the administrative costs and burdens of implementing subsection (a) with respect to a particular case or class of cases justifies such a waiver.

“(c) INFORMATION.—Notwithstanding any other provision of law, each State workers compensation authority shall, upon request of the Secretary, provide to the Secretary on a quarterly basis information concerning workers compensation benefits received by any covered DOE contractor employee entitled to compensation or benefits under this subtitle, which shall include the name, Social Security number, and nature and amount of workers compensation benefits for each such employee for which the request was made.

42 USC  
7385s-12.

**“SEC. 3683. MAXIMUM AGGREGATE COMPENSATION.**

“For each individual whose illness or death serves as the basis for compensation or benefits under this subtitle, the total amount of compensation (other than medical benefits) paid under this subtitle, to all persons, in the aggregate, on the basis of that illness or death shall not exceed \$250,000.

42 USC  
7385s-13.

**“SEC. 3684. FUNDING OF ADMINISTRATIVE COSTS.**

“There is authorized and hereby appropriated to the Secretary for fiscal year 2005 and thereafter such sums as may be necessary to carry out this subtitle.

**“SEC. 3685. PAYMENT OF COMPENSATION AND BENEFITS FROM COMPENSATION FUND.**42 USC  
7385s-14.

“The compensation and benefits provided under this title, when authorized or approved by the President, shall be paid from the compensation fund established under section 3612.

**“SEC. 3686. OFFICE OF OMBUDSMAN.**42 USC  
7385s-15.

“(a) ESTABLISHMENT.—There is established in the Department of Labor an office to be known as the ‘Office of the Ombudsman’ (in this section referred to as the ‘Office’).

“(b) HEAD.—The head of the Office shall be the Ombudsman. The individual serving as Ombudsman shall be either of the following:

“(1) An officer or employee of the Department of Labor designated by the Secretary for purposes of this section from among officers and employees of the Department who have experience and expertise necessary to carry out the duties of the Office specified in subsection (c).

“(2) An individual employed by the Secretary from the private sector from among individuals in the private sector who have experience and expertise necessary to carry out the duties of the Office specified in subsection (c).

“(c) DUTIES.—The duties of the Office shall be as follows:

“(1) To provide information on the benefits available under this subtitle and on the requirements and procedures applicable to the provision of such benefits.

“(2) To make recommendations to the Secretary regarding the location of centers (to be known as ‘resource centers’) for the acceptance and development of claims for benefits under this subtitle.

“(3) To carry out such other duties with respect to this subtitle as the Secretary shall specify for purposes of this section.

“(d) INDEPENDENT OFFICE.—The Secretary shall take appropriate actions to ensure the independence of the Office within the Department of Labor, including independence from other officers and employees of the Department engaged in activities relating to the administration of the provisions of this subtitle.

“(e) ANNUAL REPORT.—(1) Not later than February 15 each year, the Ombudsman shall submit to Congress a report on activities under this subtitle.

“(2) Each report under paragraph (1) shall set forth the following:

“(A) The number and types of complaints, grievances, and requests for assistance received by the Ombudsman under this subtitle during the preceding year.

“(B) An assessment of the most common difficulties encountered by claimants and potential claimants under this subtitle during the preceding year.

“(3) The first report under paragraph (1) shall be the report submitted in 2006.

“(f) OUTREACH.—The Secretary of Labor and the Secretary of Health and Human Services shall each undertake outreach to advise the public of the existence and duties of the Office.

“(g) SUNSET.—Effective on the date that is 3 years after the date of the enactment of this section, this section shall have no further force or effect.”.

**SEC. 3162. CONFORMING AMENDMENTS.**

(a) **OFFSET FOR CERTAIN PAYMENTS.**—Section 3641 of the Energy Employees Occupational Illness Compensation Program Act of 2000 (42 U.S.C. 7385) is amended—

(1) by striking “subtitle B” and inserting “this title”; and

(2) by striking “on account of” and all that follows through the period at the end and inserting “on account of the exposure for which compensation is payable under this title.”.

(b) **SUBROGATION OF THE UNITED STATES.**—Section 3642 of such Act (42 U.S.C. 7385a) is amended by striking “subtitle B” and inserting “this title”.

(c) **PAYMENT IN FULL SETTLEMENT OF CLAIMS.**—Section 3643 of such Act (42 U.S.C. 7385b) is amended by striking “The acceptance” and inserting “Except as provided in subtitle E, the acceptance”.

(d) **EXCLUSIVITY OF REMEDY.**—Section 3644 of such Act (42 U.S.C. 7385c(a)) is amended by adding at the end the following new subsection:

“(d) **APPLICABILITY TO SUBTITLE E.**—This section applies with respect to subtitle E to the covered medical condition or covered illness or death of a covered DOE contractor employee on the same basis as it applies with respect to subtitle B to the cancer (including a specified cancer), chronic silicosis, covered beryllium illness, or death of a covered employee.”.

(e) **CERTIFICATION OF TREATMENT OF PAYMENTS UNDER OTHER LAWS.**—Section 3646 of such Act (42 U.S.C. 7385e) is amended by striking “subtitle B” and inserting “this title”.

(f) **CLAIMS NOT ASSIGNABLE OR TRANSFERABLE.**—Section 3647(a) of such Act (42 U.S.C. 7385f(a)) is amended by striking “subtitle B” and inserting “this title”.

(g) **CERTAIN CLAIMS NOT AFFECTED BY AWARDS OF DAMAGES.**—Section 3649 of such Act (42 U.S.C. 7385h) is amended by striking “subtitle B” both places such term appears and inserting “this title”.

(h) **FORFEITURE OF BENEFITS BY CONVICTED FELONS.**—Section 3650 of such Act (42 U.S.C. 7385i) is amended by striking “subtitle B” each place such term appears and inserting “this title”.

(i) **REPEAL OF SUBTITLE D.**—Subtitle D of the Energy Employees Occupational Illness Compensation Program Act of 2000 (title XXXVI of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (as enacted into law by Public Law 106-398); 42 U.S.C. 7385o) is repealed.

**SEC. 3163. TECHNICAL AMENDMENTS.**

(a) **SUBPOENAS.**—Subtitle B of such Act is amended by adding after section 3631 (42 U.S.C. 7384v) the following new section:

42 USC 7384w.

**“SEC. 3632. SUBPOENAS; OATHS; EXAMINATION OF WITNESSES.**

“The Secretary of Labor, with respect to any matter under this subtitle, may—

“(1) issue subpoenas for and compel the attendance of witnesses;

“(2) administer oaths;

“(3) examine witnesses; and

“(4) require the production of books, papers, documents, and other evidence.”.

(b) SOCIAL SECURITY EARNINGS INFORMATION.—Subtitle C of such Act is amended by adding after section 3651 (42 U.S.C. 7385j) the following new section:

**“SEC. 3652. SOCIAL SECURITY EARNINGS INFORMATION.**

42 USC 7385j-1.

“Notwithstanding the provision of section 552a of title 5, United States Code, or any other provision of Federal or State law, the Social Security Administration shall make available to the Secretary of Labor, upon written request, the Social Security earnings information of living or deceased employees who may have sustained an illness that is the subject of a claim under this title, which the Secretary of Labor may require to carry out the provisions of this title.”.

(c) RECOVERY OF OVERPAYMENT.—Subtitle C of such Act is further amended by adding after section 3652 (as added by subsection (b)) the following new section:

**“SEC. 3653. RECOVERY AND WAIVER OF OVERPAYMENTS.**

42 USC 7385j-2.

“(a) IN GENERAL.—When an overpayment has been made to an individual under this title because of an error of fact or law, recovery shall be made under regulations prescribed by the Secretary of Labor by decreasing later payments to which the individual is entitled. If the individual dies before the recovery is completed, recovery shall be made by decreasing later benefits payable under this title with respect to the individual’s death.

“(b) WAIVER.—Recovery by the United States under this section may not be made when incorrect payment has been made to an individual who is without fault and when adjustment or recovery would defeat the purpose of this title or would be against equity and good conscience.

“(c) LIABILITY.—A certifying or disbursing official is not liable for an amount certified or paid by him when recovery of the amount is waived under subsection (b) of this section, or when recovery under subsection (a) of this section is not completed before the death of all individuals against whose benefits deductions are authorized.”.

**SEC. 3164. TRANSFER OF FUNDS FOR FISCAL YEAR 2005.**

Of the funds appropriated to the Secretary of Energy for fiscal year 2005 for the Energy Employees Occupational Illness Compensation Program, the Secretary of Energy shall transfer to the Secretary of Labor the amount of funds that the Secretary of Energy, in consultation with the Secretary of Labor, determine will be necessary for fiscal year 2005 to administer the provisions of subtitle E of the Energy Employees Occupational Illness Compensation Program Act of 2000, as added by this Act.

**SEC. 3165. USE OF ENERGY EMPLOYEES OCCUPATIONAL ILLNESS COMPENSATION FUND FOR CERTAIN PAYMENTS TO COVERED URANIUM EMPLOYEES.**

(a) IN GENERAL.—Section 3630 of the Energy Employees Occupational Illness Compensation Program Act of 2000 (42 U.S.C. 7384u) is amended in subsection (d) by inserting after “The compensation provided under this section” the following: “and the compensation provided under section 5 of the Radiation Exposure Compensation Act”.

(b) CONFORMING AMENDMENT.—Section 6(c)(1) of the Radiation Exposure Compensation Act (42 U.S.C. 2210 note) is amended by

inserting after “Fund” the following: “(or, in the case of a payment under section 5, from the Energy Employees Occupational Illness Compensation Fund, pursuant to section 3630(d) of the Energy Employees Occupational Illness Compensation Program Act of 2000)”.

**SEC. 3166. IMPROVEMENTS TO SUBTITLE B OF ENERGY EMPLOYEES OCCUPATIONAL ILLNESS COMPENSATION PROGRAM ACT OF 2000.**

(a) **ADVISORY BOARD.**—Section 3624 of the Energy Employees Occupational Illness Compensation Program Act of 2000 (42 U.S.C. 7384o) is amended by adding at the end the following new subsections:

Deadline.

“(e) **SECURITY CLEARANCES.**—(1) The Secretary of Energy shall ensure that the members and staff of the Board, and the contractors performing work in support of the Board, are afforded the opportunity to apply for a security clearance for any matter for which such a clearance is appropriate. The Secretary should, not later than 180 days after receiving a completed application, make a determination whether or not the individual concerned is eligible for the clearance.

“(2) For fiscal year 2007 and each fiscal year thereafter, the Secretary of Energy shall include in the budget justification materials submitted to Congress in support of the Department of Energy budget for that fiscal year (as submitted with the budget of the President under section 1105(a) of title 31, United States Code) a report specifying the number of applications for security clearances under this subsection, the number of such applications granted, and the number of such applications denied.

“(f) **INFORMATION.**—The Secretary of Energy shall, in accordance with law, provide to the Board and the contractors of the Board access to any information that the Board considers relevant to carry out its responsibilities under this title, including information such as Restricted Data (as defined in section 11 y. of the Atomic Energy Act of 1954 (42 U.S.C. 2014(y))) and information covered by the Privacy Act.”.

(b) **DEADLINES FOR SPECIAL EXPOSURE COHORT ACTIONS.**—(1) Section 3626 of the Energy Employees Occupational Illness Compensation Program Act of 2000 (42 U.S.C. 7384q) is amended—

(A) by redesignating subsection (c) as subsection (d); and

(B) by inserting after subsection (b) the following new subsection:

“(c) **DEADLINES.**—(1) Not later than 180 days after the date on which the President receives a petition for designation as members of the Special Exposure Cohort, the Director of the National Institute for Occupational Safety and Health shall submit to the Advisory Board on Radiation and Worker Health a recommendation on that petition, including all supporting documentation.

“(2)(A) Upon receipt by the President of a recommendation of the Advisory Board on Radiation and Worker Health that the President should determine in the affirmative that paragraphs (1) and (2) of subsection (b) apply to a class, the President shall have a period of 30 days in which to determine whether such paragraphs apply to the class and to submit that determination (whether affirmative or negative) to Congress.

“(B) If the determination submitted by the President under subparagraph (A) is in the affirmative, the President shall also submit a report meeting the requirements of section 3621(14)(C)(ii).

“(C) If the President does not submit a determination required by subparagraph (A) within the period required by subparagraph (A), then upon the day following the expiration of that period, it shall be deemed for purposes of section 3621(14)(C)(ii) that the President submitted the report under that provision on that day.”.

(2) Section 3621(14)(C)(ii) of that Act (42 U.S.C. 7384l(14)(C)(ii)) is amended by striking “180 days” and inserting “30 days”.

(c) **SITE PROFILES.**—Subtitle B of that Act is amended by adding after section 3632 (as added by section 3163(a)) the following new section:

**“SEC. 3633. COMPLETION OF SITE PROFILES.**

42 USC 7384w-1.

“(a) **IN GENERAL.**—To the extent that the Secretary of Labor determines it useful and practicable, the Secretary of Labor shall direct the Director of the National Institute for Occupational Safety and Health to prepare site profiles for a Department of Energy facility based on the records, files, and other data provided by the Secretary of Energy and such other information as is available, including information available from the former worker medical screening programs of the Department of Energy.

“(b) **INFORMATION.**—The Secretary of Energy shall furnish to the Secretary of Labor any information that the Secretary of Labor finds necessary or useful for the production of such site profiles, including records from the Department of Energy former worker medical screening program.

“(c) **DEFINITION.**—In this section, the term ‘site profile’ means an exposure assessment of a facility that identifies the toxic substances or processes that were commonly used in each building or process of the facility, and the time frame during which the potential for exposure to toxic substances existed.

“(d) **TIME FRAMES.**—The Secretary of Health and Human Services shall establish time frames for completing site profiles for those Department of Energy facilities for which a site profile has not been completed. Not later than March 1, 2005, the Secretary of Health and Human Services shall submit to Congress a report setting forth those time frames.”.

Deadline.  
Reports.

**SEC. 3167. EMERGENCY SPECIAL EXPOSURE COHORT MEETING AND REPORT.**

(a) **MEETING OF ADVISORY BOARD.**—(1) For purposes of carrying out section 3626 of the Energy Employees Occupational Illness Compensation Program Act of 2000 (42 U.S.C. 7384q), the President shall require the Advisory Board on Radiation and Worker Health to convene a meeting of the Board at which the Board considers each petition for designation as members of the Special Exposure Cohort—

(A) that was filed not later than October 1, 2004; and

Deadline.

(B) the evaluation of which (by the Director of the National Institute of Occupational Safety and Health) was completed more than 10 days before a previously scheduled meeting of the Board.

(2) Effective March 1, 2005, this subsection shall have no further force or effect.

Effective date.

(b) **REPORT TO CONGRESS.**—Not later than March 15, 2005, the President shall submit to Congress a report on the status

of the petitions referred to in subsection (a). The report shall include, for each petition, the estimated time to complete the consideration of that petition and any anticipated actions or circumstances that could preclude the Board from acting upon that petition before the end of fiscal year 2005.

**SEC. 3168. COVERAGE OF INDIVIDUALS EMPLOYED AT ATOMIC WEAPONS EMPLOYER FACILITIES DURING PERIODS OF RESIDUAL CONTAMINATION.**

(a) **COVERAGE.**—Paragraph (3) of section 3621 of the Energy Employees Occupational Illness Compensation Program Act of 2000 (title XXXVI of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (as enacted into law by Public Law 106-398); 42 U.S.C. 7384l) is amended to read as follows:

“(3) The term ‘atomic weapons employee’ means any of the following:

“(A) An individual employed by an atomic weapons employer during a period when the employer was processing or producing, for the use by the United States, material that emitted radiation and was used in the production of an atomic weapon, excluding uranium mining and milling.

“(B) An individual employed—

“(i) at a facility with respect to which the National Institute for Occupational Safety and Health, in its report dated October 2003 and titled ‘Report on Residual Radioactive and Beryllium Contamination at Atomic Weapons Employer Facilities and Beryllium Vendor Facilities’, or any update to that report, found that there is a potential for significant residual contamination outside of the period in which weapons-related production occurred;

“(ii) by an atomic weapons employer or subsequent owner or operators of a facility described in clause (i); and

“(iii) during a period, as specified in such report or any update to such report, of potential for significant residual radioactive contamination at such facility.”.

(b) **RADIATION DOSE FOR CERTAIN ATOMIC WEAPONS EMPLOYEES.**—Section 3623 of that Act (42 U.S.C. 7384n) is amended by adding at the end of subsection (c) the following new paragraph:

“(4) In the case of an atomic weapons employee described in section 3621(3)(B), the following doses of radiation shall be treated, for purposes of paragraph (3)(A) of this subsection, as part of the radiation dose received by the employee at such facility:

“(A) Any dose of ionizing radiation received by that employee from facilities, materials, devices, or byproducts used or generated in the research, development, production, dismantlement, transportation, or testing of nuclear weapons, or from any activities to research, produce, process, store, remediate, or dispose of radioactive materials by or on behalf of the Department of Energy (except for activities covered by Executive Order No. 12344, dated February 1, 1982 (42 U.S.C. 7158 note) pertaining to the Naval Nuclear Propulsion Program).

“(B) Any dose of ionizing radiation received by that employee from a source not covered by subparagraph (A) that

is not distinguishable through reliable documentation from a dose covered by subparagraph (A).”.

**SEC. 3169. UPDATE OF REPORT ON RESIDUAL CONTAMINATION OF FACILITIES.**

42 USC 7384  
note.

(a) **UPDATE OF REPORT.**—Not later than December 31, 2006, the Director of the National Institute for Occupational Safety and Health shall submit to Congress an update to the report required by section 3151(b) of the National Defense Authorization Act for Fiscal Year 2002 (Public Law 107-107; 42 U.S.C. 7384 note).

(b) **ELEMENTS.**—The update shall—

(1) for each facility for which such report found that insufficient information was available to determine whether significant residual contamination was present, determine whether significant residual contamination was present;

(2) for each facility for which such report found that significant residual contamination remained present as of the date of the report, determine the date on which such contamination ceased to be present;

(3) for each facility for which such report found that significant residual contamination was present but for which the Director has been unable to determine the extent to which such contamination is attributable to atomic weapons-related activities, identify the specific dates of coverage attributable to such activities and, in so identifying, presume that such contamination is attributable to such activities until there is evidence of decontamination of residual contamination identified with atomic weapons-related activities;

(4) for each facility for which such report found significant residual contamination, determine whether it is at least as likely as not that such contamination could have caused an employee who was employed at such facility only during the residual contamination period to contract a cancer or beryllium illness compensable under subtitle B of the Energy Employees Occupational Illness Compensation Program Act of 2000; and

(5) if new information that pertains to the report has been made available to the Director since that report was submitted, identify and describe such information.

(c) **PUBLICATION.**—The Director shall ensure that the report referred to in subsection (a) is published in the Federal Register not later than 15 days after being released.

Federal Register,  
publication.

**SEC. 3170. SENSE OF CONGRESS ON RESOURCE CENTER FOR ENERGY EMPLOYEES UNDER ENERGY EMPLOYEE OCCUPATIONAL ILLNESS COMPENSATION PROGRAM IN WESTERN NEW YORK AND WESTERN PENNSYLVANIA REGION.**

(a) **FINDINGS.**—Congress makes the following findings:

(1) New York has 36 current or former Department of Energy facilities involved in nuclear weapons production-related activities statewide, mostly atomic weapons employer facilities, and 14 such facilities in western New York. Despite having one of the greatest concentrations of such facilities in the United States, western New York, and abutting areas of Pennsylvania, continue to be severely underserved by the Energy Employees Occupational Illness Compensation Program under the Energy Employees Occupational Illness Compensation Program Act of 2000 (title XXXVI of the Floyd D. Spence National Defense

Authorization Act for Fiscal Year 2001 (as enacted into law by Public Law 106-398); 42 U.S.C. 7384 et seq.).

(2) The establishment of a permanent resource center in western New York would represent a substantial step toward improving services under the Energy Employees Occupational Illness Compensation Program for energy employees in this region.

(3) The number of claims submitted to the Department under subtitle B of the Energy Employees Occupational Illness Compensation Program Act of 2000 from the western New York region, including western Pennsylvania, exceeds the number of such claims filed at resource centers in Hanford, Washington, Portsmouth, Ohio, Los Alamos, New Mexico, the Nevada Test Site, Nevada, the Rocky Flats Environmental Technology Site, Colorado, the Idaho National Engineering Laboratory, Idaho, and the Amchitka Test Site, Alaska.

(4) Energy employees in the western New York region, including western Pennsylvania, deserve assistance under subtitle B of the Energy Employees Occupational Illness Compensation Program Act of 2000 commensurate with the assistance provided energy employees at other locations in the United States.

(b) SENSE OF CONGRESS.—It is the sense of Congress that the Secretary of Labor should—

(1) review the availability of assistance under subtitle B of the Energy Employees Occupational Illness Compensation Program Act of 2000 for energy employees in the western New York region, including western Pennsylvania; and

(2) recommend a location in that region for a resource center to provide such assistance to such energy employees.

## **TITLE XXXII—DEFENSE NUCLEAR FACILITIES SAFETY BOARD**

Sec. 3201. Authorization.

### **SEC. 3201. AUTHORIZATION.**

There are authorized to be appropriated for fiscal year 2005, \$21,268,000 for the operation of the Defense Nuclear Facilities Safety Board under chapter 21 of the Atomic Energy Act of 1954 (42 U.S.C. 2286 et seq.).

## **TITLE XXXIII—NATIONAL DEFENSE STOCKPILE**

Sec. 3301. Authorized uses of National Defense Stockpile funds.

Sec. 3302. Revision of earlier authority to dispose of certain materials in National Defense Stockpile.

Sec. 3303. Disposal of ferromanganese.

Sec. 3304. Prohibition on storage of mercury at certain facilities.

### **SEC. 3301. AUTHORIZED USES OF NATIONAL DEFENSE STOCKPILE FUNDS.**

(a) OBLIGATION OF STOCKPILE FUNDS.—During fiscal year 2005, the National Defense Stockpile Manager may obligate up to