

113TH CONGRESS  
1ST SESSION

# S. 1423

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 to establish the Advisory Board on Toxic Substances and Worker Health for the contractor employee compensation program under subtitle E of such Act.

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## IN THE SENATE OF THE UNITED STATES

AUGUST 1, 2013

Mr. UDALL of Colorado (for himself, Mr. ALEXANDER, Ms. MURKOWSKI, Mr. UDALL of New Mexico, and Mr. HEINRICH) introduced the following bill; which was read twice and referred to the Committee on Health, Education, Labor, and Pensions

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## 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 to establish the Advisory Board on Toxic Substances and Worker Health for the contractor employee compensation program under subtitle E of such Act.

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 “Toxic Substances and  
5 Worker Health Advisory Board Act”.

1 **SEC. 2. ESTABLISHMENT OF THE ADVISORY BOARD ON**  
2 **TOXIC SUBSTANCES AND WORKER HEALTH.**

3 (a) ADVISORY BOARD ON TOXIC SUBSTANCES AND  
4 WORKER HEALTH.—Subtitle B of the Energy Employees  
5 Occupational Illness Compensation Program Act of 2000  
6 (42 U.S.C. 7384l et seq.) is amended by adding at the  
7 end the following:

8 **“SEC. 3632. ADVISORY BOARD ON TOXIC SUBSTANCES AND**  
9 **WORKER HEALTH.**

10 “(a) ESTABLISHMENT.—

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

16 “(2) CONSULTATION ON APPOINTMENTS.—The  
17 President shall make appointments to the Board in  
18 consultation with organizations with expertise on  
19 worker health issues in order to ensure that the  
20 membership of the Board reflects a proper balance  
21 of perspectives from the scientific, medical, legal,  
22 worker, worker families, and worker advocate com-  
23 munities.

24 “(3) CHAIRPERSON.—The President shall des-  
25 ignate a Chair of the Board from among its mem-  
26 bers.

1 “(b) DUTIES.—The Board shall—

2 “(1) advise the President concerning the review  
3 and approval of the Department of Labor site expo-  
4 sure matrix;

5 “(2) conduct periodic peer reviews of, and ap-  
6 prove, medical guidance for part E claims examiners  
7 with respect to the weighing of a claimant’s medical  
8 evidence;

9 “(3) obtain periodic expert review of evidentiary  
10 requirements for part B claims related to lung dis-  
11 ease regardless of approval;

12 “(4) provide oversight over industrial hygien-  
13 ists, Department of Labor staff physicians, and De-  
14 partment of Labor’s consulting physicians and their  
15 reports to ensure quality, objectivity, and consist-  
16 ency; and

17 “(5) coordinate exchanges of data and findings  
18 with the Advisory Board on Radiation and Worker  
19 Health to the extent necessary (under section 3624).

20 “(c) STAFF AND POWERS.—

21 “(1) IN GENERAL.—The President shall ap-  
22 point a staff to facilitate the work of the Board. The  
23 staff of the Board shall be headed by a Director who  
24 shall be appointed under subchapter VIII of chapter  
25 33 of title 5, United States Code.

1           “(2) FEDERAL AGENCY PERSONNEL.—The  
2           President may authorize the detail of employees of  
3           Federal agencies to the Board as necessary to enable  
4           the Board to carry out its duties under this section.  
5           The detail of such personnel may be on a non-reim-  
6           bursable basis.

7           “(3) POWERS.—The Board shall have same  
8           powers that the Advisory Board has under section  
9           3624.

10          “(4) CONTRACTORS.—The Secretary shall em-  
11          ploy outside contractors and specialists selected by  
12          the Board to support the work of the Board.

13          “(d) EXPENSES.—Members of the Board, other than  
14          full-time employees of the United States, while attending  
15          meetings of the Board or while otherwise serving at the  
16          request of the President, and while serving away from  
17          their homes or regular place of business, shall be allowed  
18          travel and meal expenses, including per diem in lieu of  
19          subsistence (as authorized by section 5703 of title 5,  
20          United States Code) for individuals in the Federal Govern-  
21          ment serving without pay.

22          “(e) SECURITY CLEARANCES.—

23          “(1) APPLICATION.—The Secretary of Energy  
24          shall ensure that the members and staff of the  
25          Board, and the contractors performing work in sup-

1 port of the Board, are afforded the opportunity to  
2 apply for a security clearance for any matter for  
3 which such a clearance is appropriate.

4 “(2) DETERMINATION.—The Secretary of En-  
5 ergy should, not later than 180 days after receiving  
6 a completed application for a security clearance  
7 under this subsection, make a determination whether  
8 or not the individual concerned is eligible for the  
9 clearance.

10 “(3) REPORT.—For fiscal year 2015, and each  
11 fiscal year thereafter, the Secretary of Energy shall  
12 include in the budget justification materials sub-  
13 mitted to Congress in support of the Department of  
14 Energy budget for that fiscal year (as submitted  
15 with the budget of the President under section  
16 1105(a) of title 31, United States Code) a report  
17 specifying the number of applications for security  
18 clearances under this subsection, the number of such  
19 applications granted, and the number of such appli-  
20 cations denied.

21 “(f) INFORMATION.—The Secretary of Energy shall,  
22 in accordance with law, provide to the Board and the con-  
23 tractors of the Board, access to any information that the  
24 Board considers relevant to carry out its responsibilities  
25 under this section, including information such as re-

1 stricted data (as defined in section 11(y) of the Atomic  
2 Energy Act of 1954 (42 U.S.C. 2014(y))) and information  
3 covered by the Privacy Act.”.

4 (b) DEPARTMENT OF LABOR RESPONSE TO THE OF-  
5 FICE OF THE OMBUDSMAN ANNUAL REPORT.—Section  
6 3686 of the Energy Employees Occupational Illness Com-  
7 pensation Program Act of 2000 (42 U.S.C. 7385s–15) is  
8 amended—

9 (1) in subsection (e)(1), by striking “February  
10 15” and inserting “July 30”; and

11 (2) by striking subsection (h) and inserting the  
12 following:

13 “(h) RESPONSE TO REPORT.—Not later than 180  
14 days after the publication of the annual report under sub-  
15 section (e), the Department of Labor shall submit an an-  
16 swer in writing on whether the Department agrees or dis-  
17 agrees with the specific issues raised by the Ombudsman,  
18 if the Department agrees, on the actions to be taken to  
19 correct the problems identified by the Ombudsman, and  
20 if the Department does not agree, on the reasons there-  
21 fore. The Department of Labor shall post such answer on  
22 the public Internet website of the Department.”.

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