the Initiative. The stakeholder group will be comprised of representatives from local businesses, regional planning agencies, academic institutions, homeowners associations, environmental organizations, agricultural interests, economic development interests, the tourism industry, and tribes, as well as representatives of Federal, State, and local governments.

This stakeholder group will have three years to develop a comprehensive plan to provide for the protection and enhancement of the environmental integrity and the social and economic benefits of the Finger Lakes. The plan will be made available for public review and comment, including a number of public meetings throughout the Finger Lakes region. Once approved by the EPA Administrator, with the concurrence of the Governor, the plan will become the blueprint for federally supported activities in the region.

Furthermore, there will be an interdisciplinary research and education program established as part of the Finger Lakes Initiative, including $5 million in federal support authorized for a Finger Lakes Institute, such as the Institute that was recently announced at the Hobart and William Smith Colleges in Geneva, NY.

Overall, the bill authorizes $50 million in federal support over five years for efforts to protect and enhance the environmental, economic and cultural benefits of the Finger Lakes. And to ensure proper involvement and coordination among all federal agencies in addressing the needs and challenges in the Finger Lakes, appropriate financial, technical, and scientific assistance will be provided for the Finger Lakes Initiative by the U.S. Environmental Protection Agency, the U.S. Geological Survey, the U.S. Fish and Wildlife Service, the National Park Service, the U.S. Department of Agricultural, the National Oceanic and Atmospheric Administration, the Economic Development Administration, and the U.S. Army Corps of Engineers.

For decades, the Finger Lakes region has held its own in the world. The lakes, the farms, the towns, the wildlife, and the recreational opportunities have all pulled people toward this part of the State. I, myself, was drawn there in August and spent time in Auburn, Seneca Falls, Hammondsport, and Geneva. Seeing the potential of this region, I can just imagine the possibilities when we finally reach out to the Finger Lakes Region—when we finally provide this region with the resources and the attention and the planning it deserves. The possibilities are endless.

There is room in our Nation for another natural wonder, the Finger Lakes Region of New York State.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Ms. LANDRIEU (for herself and Mr. BAYH):

S. 3057. A bill to support the establishment or expansion and operation of programs using a network of public and private community entities to provide mentoring for children in foster care; to the Committee on Health, Education, Labor, and Pensions.

Ms. LANDRIEU. Mr. President, in 1999, several of us, including the late John Chafee and former First Lady, HILLARY CLINTON, took a long hard look at our Nation's foster care system and in particular those whom the system failed. Each year 25,000 young people leave our foster care system without ever finding a permanent family. Too many of these young people have been in this system for the majority of their lives, moved from home to home to home, school to school, with no one to count on or turn to for guidance and no where to call ''home.''

Studies show that within two to four years of leaving foster care, only half have completed high school, fewer than half are employed, one-fourth have been homeless for at least one night, 30 percent did not have access to needed health care, 60 percent of the young women have given birth, and less than one-in-five are completely self-supporting. In addition, many States report that the overwhelming majority of youth offenders housed in their State prisons were once a part of our Nation's foster care system.

While these statistics are, in and of themselves. disturbing, as author, Ruth Sidel, once said, ''statistics are people with the tears wiped away.'' It is easier for us to think of the almost 600,000 children making their way through our foster care system as numbers, but they are not. They are children. And like every child, they are born with a need to belong, to be loved, to feel protected and sheltered. When we were working on the John Chafee Foster Care Independence Act of 1999, a young woman named Lisa, who had spent her life in foster care explained this concept better than I ever could. She said, ''even at 21, I dream about having someone to call when I am not sure whether you wash whites in warm or cold water, someone to tell me that they are proud that I got an A on my Biology test, and most importantly someone who will love me no matter what. Other kids have that and they are lucky.''

One of my goals as United States Senator is to change our foster care system so children like Lisa do not fall through it's cracks. When you stop and think about it, there is no such thing as a foster care ''system'', its just people, and these children do not fall through ''cracks'', they fall through our fingers. I, for one, intend to do what I can to ensure that each and every child in the world goes to bed at night blanketed with the security that only a family of their own can provide. The legislation that I am here to introduce today by no means solves the many problems facing our kids in care, but it will go a long way toward ensuring that they do not fall through our fingers.

The Foster Care Mentoring Act of 2002 authorizes $15 million a year to be used by States to create a statewide foster care mentor program that aims to match a trained, responsible adult with each and every child in care. Last week, I had the chance to sit down with an organization, Children Uniting Nations and the First Lady of California, Sharon Davis, and they shared with me the enormous success they have had in California with a program like this. The mentors provide friendship, guidance, academic tutoring and most importantly consistency to children who are in desperate need of such things. In addition, this legislation provides Federal student loan forgiveness for each mentor that contributes at least 200 hours a year to a child in need.

Although a mentor can never take the place of a permanent family, they can make sure these children do not get lost in a system designed to protect them. Mentors can give these children the tools they need to survive and help guide and protect them as they wait for the permanent home they need and deserve. I hope that my colleagues will join me in support of this legislation.

Mr. BAYH. Mr. President, I rise today to speak in support of legislation I have been working on with Senator LANDRIEU to ensure our foster care youth are provided every opportunity to develop into bright, capable adults and become productive and valuable members of our society. The Foster Care Mentoring Act will help provide a foster care child with a role model, tutor and friend.

Although there are several concerns with the administration of our child welfare system, this bill is one way we can immediately provide necessary relief and guidance to children who have been the victims of abuse and neglect. This legislation takes a necessary step toward providing these children with a healthy stable environment. There are over half a million children in the nation's foster care system, 7,482 children in Indiana alone. As the guardian of these children, the government should take all possible steps to help them overcome their barriers.

As a result of the abuse foster care children have experienced, they are less likely to trust adults, create healthy relationships, and perform academically. Mentors will help them establish trusting relationships, assist them with their school work, and develop emotionally. Mentors will remind foster care youth that they are wanted members of our society who deserve every opportunity to achieve their dreams.

Mentors have proven to have positive impacts on the youth they mentor. Children that have mentors have better relationships with adults, fewer disciplinary referrals, and more confidence to achieve their goals. Research shows that caring adults can make a difference in children's lives: 46 percent of mentored teens are less likely to use drugs; 59 percent of mentored

teens have better academic performance; 73 percent of mentored teens achieve higher goals generally.

The Foster Care Mentoring Act authorizes $15 million a year to ensure that each mentor receives the appropriate training, makes a long-term commitment to the program, and fulfills educational requirements to mentor foster care youth. Mentoring foster care youth is another way young citizens can serve their country. This bill would reward those who take time to assist those in need. Each college-bound individual will have $2,000 forgiven from their student loans for every 200 hours they serve as a mentor to a foster care child. States will have the flexibility to coordinate with already existing programs to create mentor-child partnerships. In addition, the legislation would provide $4 million a year for the creation and administration of a national hotline and website to coordinate mentoring efforts.

Although we should work together to ensure each child in the foster care system is placed in a loving, stable, safe, and permanent home, in the meantime we can at least provide them with a guiding friend. I look forward to working with my colleagues to implement this important legislation.

By Mr. BINGAMAN (for himself, Mr. BUNNING, Mr. HARKIN, Mr. ALLARD, Mr. REID, and Mrs. CLINTON):

S. 3058. 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; to the Committee on Health, Education, Labor, and Pensions.

Mr. BINGAMAN. Mr. President, two years ago we enacted the Energy Employees Occupational Illness Compensation Program Act, EEOICPA. This important legislation was intended to give timely, uniform and reasonable compensation to Department of Energy employees suffering injury and disease resulting from working in the nuclear weapons program.

The program has two parts: a Federal component for certain diseases, and, for all others, an assistance program for the filing of State workers' compensation claims. The Federal component, for workers made ill by exposure to substances unique to DOE facilities, gives a one-time $150,000 payment and covers medical payments for illnesses like beryllium disease, certain cancers and silicosis.

Since the passage of the original act in October 2000 a number of additional issues, complicating factors and implementation barriers have emerged. Recently I held a public meeting in Espanola, New Mexico with Representative TOM UDALL, to review the performance of the program. The gathering, attending by over 300 present and former workers, focused on three broad issues: delays in processing claims, missing radiation exposure records and difficulty gaining compensation for exposure to toxic substances, like mercury.

Upon my return I continued to investigate the implementation barriers facing the program. Meetings with Department of Energy, Labor and HHS officials as well as experts in occupational health and workers compensation revealed further flaws. Let me describe some of the problems this legislation is intended to address based on what I have recently learned.

First, with regard to subtitle D, the program relies on an amalgamation of private insurance, state workers compensation programs and DOE contractor self-insurance for the timely and fair payment of medical costs and lost wages. Unfortunately, Department of Energy officials recently stated that up to 50 percent of all eligible beneficiaries would not have access to a willing payor. Assistant Secretary of Energy Beverly Cook in a June 7, 2002 letter noted DOE cannot give directives to ''persons who are not DOE contractors, such as insurers or lessees of DOE facilities.'' In short, workers found to have a meritorious claim under the program may not have a payor. The legislation introduced today would address this problem by making DOE the defacto for all claims.

Further, the Department of Energy failed, for nearly two years following the passage of the legislation, to publish a rule crucial for the submission of subtitle D claims. The physician panel rule is a critical component allowing injury claims to be adjudicated by a panel of physicians specializing in occupational medicine. Since the inception of the program and because of delays like the one described above, only four claims have been sent to the physician panel for review. Clearly, we must do better. My legislation simplifies the process to allow the expeditious handling of claims.

The dangers faced by these workers is only now being fully understood. In addition to certain cancers, silicosis and beryllium disease, increased risk for other maladies are now being discovered. In my own State of New Mexico I have workers suffering from mercury poisoning, once known as ''Mad Hatters'' disease. Mr. Alex Smith of Espanola operated a mercury still for many years at the Los Alamos National Laboratory. At one point Mr. Smith displayed all the signs of both acute and chronic mercury poisoning. He approached LANL's medical clinic seeking treatment only to be told he was not suffering from mercury poisoning. Documentation later revealed a different story. In fact, the physician did suspect Mr. Smith suffered from mercury toxicity but, for reasons we can only speculate on now, failed to act. According to the Oak Ridge Environmental Peace Alliance, during the 1950's a majority of the world's mercury was used in the production of nuclear weapons. Although mercury usage is not unique to DOE facilities, the volumes utilized in these facilities, at one point 70 percent of the world's supply, set mercury toxicity in this setting apart from other exposures.

Recent data has revealed an increased risk of chronic renal disease and lung cancer from exposure to uranium and beryllium, respectively. Although lung cancer can arise from many causes, clear scientific data points to beryllium disease as a precursor for this devastating illness. As well, chronic renal disease has many etiologies with uranium among them. Like mercury, these exposures and the consequent illnesses are unique to the environment workers found themselves in and should be recognized.

The legislation I am introducing today, along with Senators BUNNING, HARKIN, ALLARD and REID, entitled the Energy Workers Compensation Act of 2002 is intended to fulfill the original legislative objectives of Congress, address unforeseen obstacles and assure just compensation for our Nation's energy workers.

The Energy Workers Compensation Act of 2002 addresses and improves the shortcomings of the original legislation by: Establishing the Department of Labor as the willing payor of benefits for claimants approved by the Department of Energy under Subtitle D. Benefit payments are authorized from the previously established EEOICPA fund. Setting time limits for DOE to make determinations regarding claimant's employment records. Setting at 150 days the time limit for the reconstruction of worker's radiation dosages. Adding lung cancer to a list of covered beryllium related diseases. Adding chronic renal disease as a covered illness for uranium workers. Adding mercury disease as a covered illness for workers employed at facilities utilizing more than 100 kilograms of mercury. Establishing an ombudsman to help claimants with administration of claims. Allowing individuals otherwise eligible for compensation under EEOICPA, but who previously received Radiation Exposure Compensation Act awards, to be compensated at levels equal to EEOICPA.

It is imperative we protect those who helped America win the cold war. Members of the House of Representatives have come to similar conclusion. Representatives WHITFIELD and STRICKLAND have recently introduced legislation similar to ours. They too realize that promises made to cold war era workers and families must be kept. A debt of gratitude to these workers, who became sick through no fault of their own, must be paid.

I request unanimous consent that the bill and selected testimony be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 3058

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Energy Workers Compensation Act of 2002''.

SEC. 2. FINDINGS; PURPOSE.

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

(1) The Energy Employees Occupational Illness Compensation Program Act of 2000 (the ''Act'') was intended to ensure timely, uniform, and adequate compensation of covered employees (and, where applicable, survivors of such employees) suffering from illnesses incurred by such employees in the performance of duty for the Department of Energy and certain of its contractors, subcontractors, and vendors, and to provide parity for uranium miners under the Radiation Exposure Compensation Act (42 U.S.C. 2210 note).

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

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

(4) The Department of Energy finalized its regulations governing claims under Subtitle D of the Act on August 14, 2002. Those regulations require claimants to use a State workers' compensation system to secure benefits after receiving a positive findings from a Department of Energy physicians panel. The Department of Energy has conceded, however, that it will not have a willing payor for as many as 50 percent of the claims that are meritorious. As a consequence, many deserving claimants with a positive determination from a Department of Energy physicians panel will nonetheless be denied benefits.

(5) The Department of Energy's regulations (at 10 C.F.R. Part 852) direct contractors of the Department to adopt a non-adversarial posture in state workers' compensation proceedings, which are structured as an adversarial forum. The policy of inserting a non-adversarial respondent in an adversarial system should be remedied by utilizing a non-adversarial dispute resolution system. Taxpayers would also benefit from placing claimants in a non-adversarial system, such as the type of systems administered by the Department of Labor under subtitle B of the Act or under chapter 81 of title 5, United States Code (known as the Federal Employees Compensation Act), as doing so would assure that disabilities related to occupational illnesses would be compensated proportional to the degree of injury.

(6) In order to assure that congressional intent is honored with respect to the Department of Energy's program of worker assistance with state worker compensation for occupational illnesses that arose out of the course of employment from exposure to toxic substances at Department of Energy facilities, the Department of Energy's implementation of subtitle D of the Act requires reform, refinement, and clarification.

(7) Certain renal diseases related to uranium exposure and cancers related to employment by beryllium vendors should be added to coverage under subtitle B.

(8) Congress intended that follow-up implementing legislation would be required when it passed the Act and, in section 3613 of the Act, directed the administration to provide such legislation. Although such legislation was forwarded on January 15, 2001, and Congress adopted technical amendments to the Act in 2001, significant shortcomings in the Act have been identified as the Act has been implemented.

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

(1) ensure that meritorious claims for exposure to toxic substances at Department of Energy facilities are compensated under subtitle D of the Act;

(2) enhance assistance to claimants at the Department of Labor;

(3) ensure that there is parity in treatment of chronic renal disease between uranium-exposed Department of Energy employees (including employees of contractors, subcontractors, and atomic weapons employer facilities) and the uranium-exposed workers under the Radiation Exposure Compensation Act;

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

(5) make administrative improvements and technical corrections.

TITLE I—WORKERS' COMPENSATION BENEFITS FOR DOE CONTRACTOR EMPLOYEES EXPOSED TO TOXIC SUBSTANCES

SEC. 101. BENEFITS.

Subtitle D of the Energy Employees Occupational Illness Compensation Program Act of 2000 (42 U.S.C. 7385o) is amended to read as follows:

''Subtitle D—Workers' Compensation Benefits for DOE Contractor Employees Exposed to Toxic Substances

''SEC. 3661. DEFINITIONS.

''In this subtitle:

''(1) The term 'DOE contractor' means any of the following:

''(A) A contractor (or subcontractor at any tier) of the Department of Energy.

''(B) A contractor (or subcontractor at any tier) of USEC, a Government-owned corporation, during the period beginning on July 1, 1993, and ending on July 28, 1998.

''(2) The term 'DOE contractor employee' means any of the following:

''(A) An employee of a contractor (or subcontractor at any tier) of the Department of Energy.

''(B) An employee of a contractor (or subcontractor at any tier) of USEC, a Government-owned corporation, during the period beginning on July 1, 1993, and ending on July 28, 1998.

''(3) The term 'covered DOE contractor employee' means a DOE contractor employee, if a claim relating to that employee is forwarded by the Secretary of Energy under section 3662(d)(3)(A) to the Secretary of Labor for payment under section 3663.

''(4) The term 'specified illness' means, with respect to a covered DOE contractor employee, the illness by reason of which the claim relating to that employee was forwarded by the Secretary of Energy under section 3662(d)(3)(A) to the Secretary of Labor for payment under section 3663.

''SEC. 3662. DETERMINATIONS OF CAUSATION BY DEPARTMENT OF ENERGY.

''(a) PROCEDURE FOR SUBMITTING CLAIMS.—

''(1) IN GENERAL.—The Secretary of Energy shall establish, by regulation, procedures under which an individual may submit a claim for benefits under this subtitle due to occupational illness from exposure to toxic substances.

''(2) NOTICE TO CLAIMANT.—Not later than 10 days after the receipt of a claim under paragraph (1), the Secretary of Energy shall notify the claimant of the receipt of the claim and provide the name, address, and phone number of a person capable of answering questions and providing additional information with respect to the procedures and benefits under this subtitle.

''(b) INITIAL REVIEW BY DOE.—

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

''(A) The claim was filed by or on behalf of a DOE contractor employee or such employee's estate.

''(B) The illness or death of the DOE contractor employee may have been related to employment at a Department of Energy facility.

''(2) DETERMINATIONS.—

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

''(B) If the Secretary determines that the claimant did submit reasonable evidence under both paragraphs (1)(A) and (1)(B), the Secretary shall—

''(i) not later than 10 days after making such determination, notify the claimant of such determination;

''(ii) ensure that the claimant is afforded the opportunity to review the entire record, and to supplement the record within 30 days after the date on which information is provided by the DOE contractor, before the claim is submitted to a physicians panel;

''(iii) not later than 10 days after the end of the 30-day period referred to in clause (ii) or the date on which the claimant completes the supplement of the record under that clause, whichever is later, submit the claim to a physicians panel for review under subsection (c); and

''(iv) not later than 10 days after submitting the claim to a physicians panel, notify the claimant of such submission.

''(c) REVIEW BY PHYSICIANS PANELS.—

''(1) COMPOSITION.—

''(A) The Secretary of Energy shall inform the Secretary of Health and Human Services of the number of physicians panels the Secretary of Energy has determined to be appropriate to administer this section, the number of physicians needed for each panel, and the area of jurisdiction of each panel.

''(B) The Secretary of Health and Human Services shall appoint panel members with experience and competency in diagnosing occupational illnesses under section 3109 of title 5, United States Code. Each member of a panel shall be paid at the rate of pay payable for level III of the Executive Schedule for each day (including travel time) the member is engaged in the work of a panel.

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

''(2) OPERATION.—

''(A) The Secretary of Energy shall assist the claimant in obtaining additional evidence within the control of the Department of Energy or a DOE contractor who employed a DOE contractor employee and relevant to the panel's deliberations.

''(B) At the request of a panel, the Secretary of Energy and a DOE contractor who employed a DOE contractor employee shall provide additional information relevant to

the panel's deliberations. A panel may consult specialists in relevant fields as it determines necessary.

''(C) In any case in which the panel finds that additional diagnostic testing or an exposure assessment is necessary to the panel's deliberations—

''(i) the panel shall so notify the Secretary of Energy and the claimant;

''(ii) the claimant may obtain such diagnostic testing or exposure assessment using a qualified physician chosen by the claimant or a qualified occupational health expert (as applicable) or, if the claimant so desires, may obtain such diagnostic testing or exposure assessment using the program carried out under section 3162 of the National Defense Authorization Act for Fiscal Year 1993 (42 U.S.C. 7274i) to monitor Department of Energy workers exposed to hazardous and radioactive substances; and

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

''(D) The Secretary of Energy is authorized to enter into or modify cooperative agreements with providers who are implementing the program carried out under section 3162 of the National Defense Authorization Act for Fiscal Year 1993 (42 U.S.C. 7274i) to provide assessments of exposures to toxic substances at Department of Energy facilities to claimants under circumstances covered by subparagraph (C).

''(3) DETERMINATION OF CAUSATION.—A panel shall review a claim submitted to it under this subsection and shall determine, under guidelines established by the Secretary of Energy, by regulation, whether the illness or death that is the subject of the claim arose out of and in the course of employment by the Department of Energy and exposure to a toxic substance at a Department of Energy facility. For purposes of the preceding sentence, illness or death shall be deemed to arise out of and in the course of employment by the Department of Energy and exposure to a toxic substance at a Department of Energy facility if exposure to the toxic substance (or substances, as the case may be) was a significant factor which aggravated, contributed to, or caused the illness or death.

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

''(5) REPORT TO SECRETARY.—Once a panel has made a determination under paragraph (3), it shall report to the Secretary of Energy its determination and the basis for the determination.

''(d) REVIEW OF PANEL DETERMINATIONS.—

''(1) IN GENERAL.—The Secretary of Energy shall review a panel's determination under subsection (c)(3), information the panel considered in reaching its determination, any relevant new information not reasonably available at the time of the panel's deliberations, and the basis for the panel's determination.

''(2) ACCEPTANCE OF PANEL DETERMINATION.—As a result of the review under paragraph (1), the Secretary shall accept the panel's determination in the absence of a preponderance of evidence to the contrary.

''(3) ACTION UPON ACCEPTED CLAIMS.—If the panel has made a positive determination under subsection (c)(3) and the Secretary accepts the determination under paragraph (2), or the panel has made a negative determination under subsection (c)(3) and the Secretary finds significant evidence to the contrary—

''(A) the Secretary of Energy shall within 10 days forward the claim to the Secretary of Labor for payment under section 3663, together with information relating to—

''(i) the DOE contractor employee to whom the claim relates;

''(ii) the illness to which the claim relates;

''(iii) the determination of the panel and the basis for the determination;

''(iv)(I) the acceptance of the Secretary and the basis for the acceptance; or

''(II) the reversal of the negative determination by the panel and the basis for the reversal;

''(v) the employment to which the claim relates, including available wage or salary information; and

''(vi) any other matter that the Secretary of Labor considers necessary;

''(B) the Secretary of Energy thereafter—

''(i) shall not contest the claim;

''(ii) shall not contest an award made regarding the claim; and

''(iii) shall direct the DOE contractor who employed the DOE contractor employee to which the claim relates not to contest the claim or such award in any administrative or judicial forum, and such obligation in no case shall be considered discretionary; and

''(C) any costs of contesting a claim or an award regarding the claim incurred by the DOE contractor who employed the DOE contractor employee who is the subject of the claim shall not be an allowable cost under a Department of Energy contract.

''(e) ACCESS TO INFORMATION.—

''(1) DUTY TO PROVIDE INFORMATION.—At the request of the Secretary of Energy, a DOE contractor who employed a DOE contractor employee and any other entity possessing information related to such employee relevant to deliberations under this section shall make such information available to the Secretary.

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

''(f) OUTREACH.—The Secretary of Energy, in cooperation with the Secretary of Labor, shall carry out a program of outreach and education about the availability of benefits under this subtitle. The Secretary shall make available in paper and electronic format forms and information available for potential claimants. As part of the program of outreach, the Secretary shall conduct notification by mail and use the former worker medical screening programs to notify, educate, and assist claimants.

''(g) ADMINISTRATIVE AND JUDICIAL REVIEW.—The Secretary of Energy shall establish a process under which a claimant may obtain prompt and independent administrative review of any adverse determination by the Secretary under subsection (b) or (d) or by a panel under subsection (c). The results of any such administrative review shall be deemed to be a final agency action subject to judicial review.

''(h) REPORT TO CONGRESS.—Not later than February 1 of each year, the Secretary of Energy shall submit to Congress a report on the implementation and operation of this section. The report shall include, for the preceding calendar year—

''(1) the number of claims received under this subtitle;

''(2) the size of the backlog in processing such claims;

''(3) the number of such claims submitted to a physicians panel;

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

''(5) the number of determinations accepted, reversed, and denied by the Secretary;

''(6) the number of claims denied under subsection (b) for failure to submit reasonable evidence;

''(7) the number and type of diagnostic tests and exposure assessments requested by a panel, and the number and type of such tests and assessments that were carried out;

''(8) the number and type of claims appealed, and the dispositions of such appeals; and

''(9) the expenditures made, and staff and contractors employed, in carrying out the Department of Energy's responsibilities under this section.

''(i) APPLICABILITY OF EXISTING REGULATIONS.—In implementing the Energy Workers Compensation Act of 2002 and the amendments to this title made by that Act, regulations prescribed by the Secretary of Energy before the date of the enactment of that Act may, to the extent not inconsistent with this title (as so amended), continue to apply to this title.

''SEC. 3663. PAYMENT OF BENEFITS BY DEPARTMENT OF LABOR.

''(a) IN GENERAL.—

''(1) PAYMENTS.—Payments shall be made with respect to a covered DOE contractor employee in accordance with this section for the disability or death of that employee resulting from that employee's specified illness.

''(2) MEDICAL BENEFITS.—A covered DOE contractor employee shall receive medical benefits under section 3629 for that employee's specified illness.

''(3) PAYMENT FROM FUND.—The compensation provided under this section shall be paid from the Fund established under section 3612.

''(b) DUTY OF SECRETARY OF LABOR.—The Secretary of Labor shall have the duty to carry out this section.

''(c) NATURE AND AMOUNT OF PAYMENTS.—

''(1) IN GENERAL.—The following provisions of subchapter I of chapter 81 of title 5, United States Code, apply to a covered DOE contractor employee (including the regulations prescribed with respect to those provisions, adapted as appropriate), and the Secretary of Labor shall provide, with respect to that employee and that employee's specified illness, payments determined in accordance with those provisions: Sections 8102(a), 8105, 8106, 8107, 8108, 8109, 8110, 8111(a), 8112, 8114, 8115, 8116, 8117, 8133, 8134, and 8146a.

''(2) ORGANS AND PHYSIOLOGICAL SYSTEMS.—For purposes of carrying out this subtitle, the Secretary of Labor shall prescribe additional regulations for resolving claims under this subtitle of partial or total loss of use of function of organs or physiological systems that are not already covered by existing regulations. Such additional regulations shall cover the liver, brain, stomach, heart, esophagus, bladder, thyroid, pancreas, and nervous system, and such additional organs and physiological systems as the Secretary considers appropriate. The Secretary shall issue such regulations not later than 90 days after the date of the enactment of the Energy Workers Compensation Act of 2002.

''(d) ADMINISTRATIVE AND JUDICIAL REVIEW.—

''(1) IN GENERAL.—The Secretary of Labor shall establish a process under which a claimant may obtain administrative review of any adverse determination by the Secretary of Labor under this section. Such process shall not apply to any adverse determination by the Secretary of Energy.

''(2) JUDICIAL REVIEW.—The results of any such administrative review shall be deemed to be a final agency action subject to judicial review in the United States district

court for the district in which the claimant resides.

''(3) ATTORNEY FEES.—In any proceeding pursuant to this subsection, attorney fees shall be available on the same basis as such fees are available under section 28 of the Longshore and Harbor Workers' Compensation Act (33 U.S.C. 928).

''SEC. 3664. GENERAL PROVISIONS RELATING TO RESOLUTION OF CLAIMS.

''(a) NONADVERSARIAL.—The Secretary of Energy and the Secretary of Labor shall each ensure that claims under this subtitle are resolved in a nonadversarial manner.

''(b) NO STATUTE OF LIMITATIONS.—A claim under this subtitle shall not be barred by any statute of limitations.

''SEC. 3665. OFFSET FOR CERTAIN PAYMENTS.

''A claimant awarded benefits under this subtitle as a result of a specified illness or death of a DOE contractor employee who receives benefits because of the same illness or death from any State workers' compensation system shall receive the benefits specified in this subtitle for such illness or death, reduced by the amount of any workers' compensation benefits that the claimant receives or will receive on account of such illness or death under any State workers' compensation system during the period that awarded benefits are provided under this subtitle, after deducting the reasonable costs, as determined by the Secretary of Labor by regulation, of obtaining such benefits.

''SEC. 3666. SUBROGATION OF THE UNITED STATES NOT APPLICABLE.

''Notwithstanding any other provision of law, the United States has no right of subrogation against any person by reason of payments or other benefits provided under this subtitle.

''SEC. 3667. CERTIFICATION OF TREATMENT OF PAYMENTS UNDER OTHER LAWS.

''Compensation or benefits provided to an individual under this subtitle—

''(1) shall be treated for purposes of the internal revenue laws of the United States as damages for human suffering; and

''(2) shall not be included as income or resources for purposes of determining eligibility to receive benefits described in section 3803(c)(2)(C) of title 31, United States Code, or the amount of such benefits.

''SEC. 3668. CERTAIN CLAIMS NOT AFFECTED BY AWARDS OF DAMAGES.

''A payment under this subtitle shall not be considered as any form of compensation or reimbursement for a loss for purposes of imposing liability on any individual receiving such payment, on the basis of such receipt, to repay any insurance carrier for insurance payments; and a payment under this subtitle shall not affect any claim against an insurance carrier with respect to insurance.

''SEC. 3669. FORFEITURE OF BENEFITS BY CONVICTED FELONS.

''(a) FORFEITURE OF COMPENSATION.—Any individual convicted of a violation of section 1920 of title 18, United States Code, or any other Federal or State criminal statute relating to fraud in the application for or receipt of any benefit under this title or under any other Federal or State workers' compensation law, shall forfeit (as of the date of such conviction) any entitlement to any compensation or benefit under this subtitle such individual would otherwise be awarded for any injury, illness, or death covered by this subtitle for which the time of injury was on or before the date of the conviction.

''(b) INFORMATION.—Notwithstanding section 552a of title 5, United States Code, or any other Federal or State law, an agency of the United States, a State, or a political subdivision of a State shall make available to the President, upon written request from the President and if the President requires the information to carry out this section, the names and Social Security account numbers of individuals confined, for conviction of a felony, in a jail, prison, or other penal institution or correctional facility under the jurisdiction of that agency.

''SEC. 3670. EXCLUSIVITY OF REMEDY.

''The liability of the United States or a DOE contractor in its capacity as an employer of a DOE contractor employee under this subtitle with respect to the specified illness or death of a DOE contractor employee for which compensation is made under this subtitle is exclusive and instead of all other liability of the United States or DOE contractor in such capacity to the employee, his legal representative, spouse, dependents, next of kin, and any other person otherwise entitled to recover damages from the United States or DOE contractor in such capacity because of the specified illness or death in a direct judicial proceeding, in a civil action, or in admiralty, except for a State workers' compensation proceeding or a State intentional tort liability proceeding. However, this section shall not apply to illness or death for which compensation under this subtitle is not made.

''SEC. 3671. COORDINATION WITH BENEFITS UNDER SUBTITLE B.

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

''(b) OFFSET FOR BENEFITS PAID ON SAME ILLNESS OF SAME PERSON.—If a lump sum payment is made under subtitle B by reason of a specified illness of a person, any payment (excluding medical costs) made under this subtitle by reason of the same specified illness of the same person shall be offset by the amount of such lump sum payment. In no case shall a claimant obtain double indemnity wage replacement benefits for specified illness under this subtitle.

''SEC. 3672. ASSIGNMENT OF CLAIM.

''An assignment of a claim for compensation under this subtitle is void. Compensation and claims for compensation are exempt from claims of creditors.''.

SEC. 102. GAO REPORT.

Not later than February 1, 2004, the Comptroller General shall submit to Congress a report on the implementation by the Department of Energy of subtitle D of the Energy Employees Occupational Illness Compensation Program Act of 2000 (42 U.S.C. 7385o et seq.), as amended by section 101, and of the effectiveness of such subtitle in assisting DOE contractor employees in obtaining compensation for exposure to a toxic substance at a Department of Energy facility.

TITLE II—AMENDMENTS RELATING TO SUBTITLE B OF PROGRAM

SEC. 201. COVERAGE FOR CHRONIC RENAL DISEASE.

(a) DEFINITIONS FOR PROGRAM ADMINISTRATION.—Section 3621 of the Energy Employees Occupational Illness Compensation Program Act of 2000 (42 U.S.C. 7384l) is amended—

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

''(D) A covered employee with chronic renal disease.'';

(2) in paragraph (15), by striking ''or chronic silicosis'' and inserting ''chronic silicosis, chronic renal disease,''; and

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

''(19) The term 'chronic renal disease' includes nephritis and kidney tubal tissue injury and related illnesses of the urogenitoury tract.

''(20) The term 'covered employee with chronic renal disease' means an individual determined to have sustained chronic renal disease in the performance of duty in accordance with section 3623(f).''.

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

''(f) CHRONIC RENAL DISEASE.—(1) An individual with chronic renal disease shall, in the absence of substantial evidence to the contrary, be determined to have sustained chronic renal disease in the performance of duty for purposes of the compensation program if the individual—

''(A) was employed in a Department of Energy facility (in the case of a Department of Energy employee or a Department of Energy contractor employee) or an atomic weapons employer facility (in the case of an atomic weapons employee) that conducted uranium processing, converting, refining, enriching, extruding, calcining, machining, or rolling, or that operated as a uranium foundry;

''(B) carried out job functions while so employed that resulted in the potential for exposure, inhalation, or uptake of uranium or uranium compounds for at least 250 days; and

''(C) submits medical evidence that the individual, after commencing the employment specified in subparagraph (A), contracted chronic renal disease.

''(2) Not later than 60 days after the date of the enactment of the Energy Workers Compensation Act of 2002, the Secretary of Energy shall designate a list of Department of Energy facilities and atomic weapons employer facilities that were engaged in uranium processing, converting, refining, enriching, extruding, calcining, machining, or rolling, or that operated as a uranium foundry, including the dates such activities were performed. The list of facilities shall not include facilities for which uranium millers and transporters are already covered under the Radiation Exposure Compensation Act (42 U.S.C. 2210 note).

''(3) Not later than 90 days after the date of the enactment of the Energy Workers Compensation Act of 2002, the Secretary of Labor, in consultation with the Secretary of Health and Human Services, shall establish, by regulation, procedures to be followed and medical evidence to be submitted by claimants for chronic renal disease claims.''.

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

(1) by striking ''or covered uranium employee (as defined in section 3630),'' and inserting ''covered uranium employee (as defined in section 3630), covered employee with chronic renal disease,''; and

(2) by striking ''or radiation,'' and inserting ''radiation, uranium,''.

(d) CONFORMING AMENDMENTS.—The following provisions of such Act are amended by inserting ''chronic renal disease,'' after ''chronic silicosis,'' each place such term appears:

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

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

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

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

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

SEC. 202. COVERAGE FOR MERCURY POISONING.

(a) DEFINITIONS FOR PROGRAM ADMINISTRATION.—Section 3621 of the Energy Employees Occupational Illness Compensation Program Act of 2000 (42 U.S.C. 7384l), as amended by section 201(a) of this Act, is further amended—

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

''(E) A covered employee with mercury poisoning.'';

(2) in paragraph (15), by inserting ''or mercury poisoning'' after ''chronic renal disease,''; and

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

''(21) The term 'covered employee with mercury poisoning' means an individual determined to have sustained mercury poisoning in the performance of duty in accordance with section 3627A.''.

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

''SEC. 3627A. MERCURY POISONING.

''(a) IN GENERAL.—A Department of Energy employee or Department of Energy contractor employee who was exposed to mercury in the performance of duty and who experiences mercury poisoning shall be treated as a covered employee for purposes of the compensation program.

''(b) EXPOSURE TO MERCURY IN PERFORMANCE OF DUTY.—A Department of Energy employee or Department of Energy contractor employee shall, in the absence of substantial evidence to the contrary, be treated as having been exposed to mercury in the performance of duty for purposes of subsection (a) if while employed in activities associated with the design, production, or testing of atomic weapons, or clean-up related thereto, such employee was present in a Department of Energy facility that—

''(1) contained more than 100 kilograms of mercury; and

''(2) did not confine mercury operations to work spaces with dedicated ventilation systems for the removal of airborne toxic substances.

''(c) MERCURY POISONING.—A Department of Energy employee or Department of Energy contractor employee shall be treated as experiencing mercury poisoning for purposes of subsection (a) if such employee manifests a physical, psychological, or neurological illness consistent with mercury poisoning.

''(d) DETERMINATIONS OF MERCURY POISONING.—The Secretary of Labor shall utilize evaluations, tests, or other medical information obtained pursuant to section 3162 of the National Defense Authorization Act for Fiscal Year 1993 (42 U.S.C. 7274i), and may utilize any other evaluations, tests, information, or other means that the Secretary considers appropriate, to determine whether a Department of Energy employee or Department of Energy contractor employee manifests a physical, psychological, or neurological illness consistent with mercury poisoning for purposes of subsection (a).''.

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

(1) by inserting ''or covered employee with mercury poisoning'' after ''covered employee with chronic renal disease,''; and

(2) by inserting ''or mercury'' after ''uranium,''.

(d) CONFORMING AMENDMENTS.—The following provisions of such Act, as amended by section 201(d) of this Act, are further amended by inserting ''mercury poisoning,'' after ''chronic renal disease,'' each place such term appears:

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

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

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

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

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

SEC. 203. COVERAGE FOR LUNG CANCER IN COVERED BERYLLIUM EMPLOYEES.

Section 3621(8) of the Energy Employees Occupational Illness Compensation Program Act of 2000 (42 U.S.C. 7384l(8)) is amended—

(1) by redesignating subparagraph (C) as subparagraph (D) and, in that subparagraph, by striking ''or (B)'' and inserting ''(B), or (C)''; and

(2) by inserting after subparagraph (B) the following new subparagraph:

''(C) Lung cancer, if such cancer occurs within 5 years after the date on which the employee is determined to have been first exposed to beryllium in the performance of duty in accordance with section 3623(a).''.

SEC. 204. CLARIFICATION OF SPECIAL EXPOSURE COHORT EXPANSION PROCEDURE.

(a) AUTOMATIC DESIGNATION BY LAPSE OF TIME.—Section 3626 of the Energy Employees Occupational Illness Compensation Program Act of 2000 (42 U.S.C. 7384q) is amended—

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

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

''(c) AUTOMATIC DESIGNATION BY LAPSE OF TIME.—Notwithstanding subsection (b), if a class of employees described in subsection (a)(1) petitions to be treated as members of the Special Exposure Cohort under subsection (a)(3), the members of that class shall, as of the expiration of the 180-day period beginning with the date on which the petition was received, be deemed to be members of the Special Exposure Cohort for purposes of the compensation program, unless before the expiration of that period the petition is denied.''.

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

''(3) An estimate referred to in paragraph (1) shall be completed by the Secretary of Health and Human Services within 150 days after the date on which the Department of Labor submits to the Secretary of Health and Human Services the claim for which the estimate is required. If such estimate cannot be completed before the expiration of such period, it shall be deemed, for purposes of section 3626(b)(1), that it is not feasible to estimate with sufficient accuracy the radiation dose received by the individual to which the claim relates.''.

SEC. 205. CORRECTING PROBLEMS IN THE RADIOEPIDEMIOLOGIC MODEL FOR DETERMINING COMPENSATION.

Section 3623(c)(3) of the Energy Employees Occupational Illness Compensation Program Act of 2000 (42 U.S.C. 7384n(c)(3)) is amended—

(1) in subparagraph (B), by striking ''and'' at the end;

(2) in subparagraph (C)—

(A) by striking ''past health-related activities (such as smoking),''; and

(B) by striking the period at the end and inserting ''; and''; and

(3) by adding at the end the following new subparagraph:

''(D) provide the benefit of the doubt to the claimant wherever there is reasonable scientific evidence to justify compensation, including such factors as dose rate effectiveness of low dose radiation, bias due to selection effects, and increasing risks from radiation with increasing age at exposure.''.

SEC. 206. ADDITIONAL SPECIFIED CANCERS.

(a) REPORT.—The National Institute for Occupational Safety and Health shall prepare a report that identifies each type of cancer (other than specified cancers, as already defined in section 3621(17) of the Energy Employees Occupational Illness Compensation Program Act of 2000 (42 U.S.C. 7384l(17))) that the Institute has determined from epidemiology studies of workers or atomic bomb survivors to be radiosensitive and, for each cancer so identified, provides a basis for that determination. Not later than 90 days after the date of the enactment of this Act, the Institute shall submit the report to Congress, the Secretary of Labor, and the Advisory Board on Radiation and Worker Health, and shall publish the report in the Federal Register, for public review and comment.

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

SEC. 207. COVERAGE FOR INDIVIDUALS EMPLOYED BY ATOMIC WEAPONS EMPLOYERS OR BERYLLIUM EMPLOYEES DURING PERIOD OF RESIDUAL CONTAMINATION.

Paragraphs (3) and (7)(C) of section 3621 of the Energy Employees Occupational Illness Compensation Program Act of 2000 (42 U.S.C. 7384l) are each amended by inserting before the period at the end the following: '', or during a period when, as specified by the National Institute for Occupational Safety and Health in the reports required by section 3151(b)(2)(A)(ii) of the National Defense Authorization Act for Fiscal Year 2002 (42 U.S.C. 7384 note) or any subsequent report, significant contamination remained in a facility of the employer after such facility discontinued activities relating to the production of nuclear weapons and such contamination could have caused or substantially contributed to the cancer of a covered employee with cancer or a covered beryllium illness, as the case may be''.

SEC. 208. COORDINATION OF COMPENSATION AND BENEFITS FOR CANCER WITH COMPENSATION AND BENEFITS UNDER OTHER RADIATION COMPENSATION LAWS.

(a) COORDINATION.—Section 3651 of the Energy Employees Occupational Illness Compensation Program Act of 2000 (42 U.S.C. 7385j) is amended to read as follows:

''SEC. 3651. COORDINATION WITH OTHER RADIATION COMPENSATION LAWS.

''(a) IN GENERAL.—Except in accordance with section 3630 and except as provided in subsection (b), an individual may not receive compensation or benefits under the compensation program for cancer and also receive compensation under either of the following:

''(1) The Radiation Exposure Compensation Act (42 U.S.C. 2210 note).

''(2) Section 112(c) of title 38, United States Code.

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

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the date of the enactment of this Act.

SEC. 209. TECHNICAL CORRECTIONS.

(a) FINDINGS.—Section 3602(a)(6) of the Energy Employees Occupational Illness Compensation Program Act of 2000 (42 U.S.C. 7384(a)(6)) is amended by striking the second sentence and inserting the following: ''Furthermore, studies indicate that 98 percent of radiation-induced cancers within the Department of Energy nuclear weapons complex

occur at dose levels below the existing thresholds for establishing proof of causation. Those studies further indicate that workers at Department of Energy sites were exposed to levels of silica, heavy metals, and toxic substances that will lead, contribute to, or aggravate illnesses or diseases.''.

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

TITLE III—ADMINISTRATIVE ASSISTANCE FOR CLAIMANTS UNDER EITHER SUBTITLE OF ACT

SEC. 301. PROVIDING ADMINISTRATIVE RELIEF IN CASES WHERE MEDICAL RECORDS ARE NOT AVAILABLE.

Subtitle C of the Energy Employees Occupational Illness Compensation Program Act of 2000 (42 U.S.C. 7385 et seq.) is amended by adding at the end the following new section:

''SEC. 3652. PROOF WHEN MEDICAL RECORDS NOT AVAILABLE.

''For any claim under any subtitle of this title, if the Department of Energy, a contractor of the Department of Energy (including a DOE contractor, as defined in section 3661), an atomic energy weapons employer, or a beryllium vendor is unable to locate medical records necessary for the processing of that claim that it possessed or was required to possess within 120 days after receiving a written request from the claimant to locate such records, an affidavit of the employee as to the contents of those records, together with any medical records possessed by the claimant or otherwise made available, shall be considered in determining the medical evidence relating to the claim.''.

SEC. 302. RESOURCE CENTERS AND OUTREACH PROGRAMS.

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

''SEC. 3653. RESOURCE CENTERS AND OUTREACH PROGRAMS.

''(a) REQUIREMENT.—The Secretary of Labor and the Secretary of Energy shall maintain resource centers and outreach programs relating to the availability of benefits under any subtitle of this title. Such centers shall be staffed and maintained proportional to the demand for assistance and follow-up.

''(b) UNDERSERVED AREAS.—The resource centers required by subsection (a) shall include one or more resource centers in each underserved area near a Department of Energy facility.

''(c) DURATION.—(1) Except as provided in paragraph (2), such centers and programs shall be maintained through September 30, 2004.

''(2) In the case of a resource center in an underserved area referred to in subsection (b), such center shall be maintained until demand is exhausted.''.

SEC. 303. OFFICE OF THE OMBUDSMAN.

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

''SEC. 3654. OFFICE OF THE OMBUDSMAN.

''(a) ESTABLISHMENT.—There is established within the Office of the Secretary of Labor an office, to be known as the Office of the Ombudsman for Occupational Illness Compensation (in this section referred to as the 'Office'), to assist claimants under this title.

''(b) OMBUDSMAN.—

''(1) APPOINTMENT.—The head of the Office shall be the Ombudsman. The Ombudsman shall be appointed by the Secretary of Labor, after consultation with claimants or claimant advocates, worker compensation experts, and members of the advisory committees to Federal agencies implementing this title, from among individuals with at least one of the following qualifications:

''(A) Experience or training as an advocate.

''(B) Training as a health care provider with knowledge of occupational illness and disease.

''(C) Experience in assisting claimants with worker compensation claims.

''(2) REMOVAL.—The Secretary of Labor may remove the Ombudsman for just cause and shall, in such a case, communicate to Congress the circumstances forming the basis of such just cause.

''(c) DUTIES.—The duties of the Ombudsman are as follows:

''(1) To direct the operations of the Office.

''(2) To report to the Secretary of Labor with respect to the activities of the Office.

''(3) To assist claimants under this title with claims filed with the Department of Labor or the Department of Energy.

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

''(5) To provide claimants under this title with contacts at agencies with responsibilities under this title.

''(6) To offer informal advice on options available to claimants under this title.

''(7) To identify whether claimants under this title are encountering systematic difficulties or delays with respect to claims under this title, and to make recommendations for improvement, with respect to such claims, in speed, equity, fairness, or compliance with statutes and regulations.

''(8) With respect to individuals filing complaints or requests for information under this title—

''(A) to respond within 30 days after receiving such a complaint or request;

''(B) to maintain reasonable communication with the individual until the matter is resolved; and

''(C) to maintain, as confidential and privileged, the identity of the individual, unless such confidentiality or privilege is otherwise waived.

''(9) To maintain and publish a telephone number, facsimile number, electronic mail address, and post office address for the Office.

''(d) LIMITATION.—The Ombudsman may not reverse or make decisions regarding any claim under this title.

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

''(1) Investigate questions regarding a claim under this title, or procedures or systems for processing such claims, with the offices of the Department of Energy, Department of Labor, and Department of Health and Human Services (including the National Institute for Occupational Safety and Health), and any contractor of any such department, that has responsibility under this title.

''(2) Contract for expert advice with respect to the Ombudsman's responsibilities under this title.

''(3) Access any material relating to a matter under investigation under paragraph (1).

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

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

''(6) Refer any matter within the responsibility of the Ombudsman to an appropriate inspector general.

''(f) COOPERATION WITH FEDERAL AGENCIES.—Federal agencies and the officials responsible for the implementation of this title shall assist the Ombudsman in carrying out this section and shall promptly make available to the Ombudsman all information requested by the Ombudsman. The Ombudsman shall cooperate with such agencies and officials.

''(g) COORDINATION.—The Ombudsman shall coordinate the activities of the Office with the activities of the Secretaries of Energy, Health and Human Services, and Labor in carrying out this title. Such coordination shall be carried out pursuant to memoranda of agreement entered into among and between the Ombudsman and such Secretaries.

''(h) ANNUAL REPORT.—Not later than January 1 of each year, the Ombudsman shall submit a report on this title to the President, Congress, and the Secretaries of Energy, Health and Human Services, and Labor. No official outside the Office may require such outside official's approval before submitting the report. The report shall contain the following:

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

''(2) Identification of the most common difficulties encountered by claimants under this title.

''(3) Recommended changes to the administrative practices of the Federal agencies with responsibility under this title.

''(4) Recommended legislative changes that may be appropriate to mitigate problems with the implementation of this title.

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

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

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

(b) INITIAL APPOINTMENT.—Not later than 60 days after the date of the enactment of this Act, the Secretary of Labor shall appoint the Ombudsman required by section 3654 of the Energy Employees Occupational Illness Compensation Program Act of 2000 (as added by subsection (a)).

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

MEETING ON THE ENERGY EMPLOYEES OCCUPATIONAL ILLNESS COMPENSATION PROGRAM, MAY 11, 2002, 3:00 P.M., ESPANOLA, NEW MEXICO

You know, these people are all good people. And after 9/11, when there's been so much talk about patriotism and doing the right thing by people who helped their country, on behalf of Levi and others similarly situated, I would just ask the Congress and the Administration to remember those words and not let them be hollow, empty phrases. Thank you very much. (Applause.)

Mr. SMITH: My name is Alex Smith. I'm a 33-year employee with the Lab. I testified before Tom and Senator Bingaman and David Michaels the last time. I went to work for the Lab in 1947 in the chemical warehouse. Tom and Bingaman already know and I've been doing this for your benefit.

I went to work for the chemical warehouse there at the Lab in the old TA 1. My duties

were clerk and to issue laboratory chemicals and laboratory glassware, and when we had time, I'd run a mercury, still, me and another fellow named Lewis Devetima.

In 1948, early in 1948, I started having trouble. My face would swell up, and my gums were bleeding. And I would go down to Q Building to see Dr. Whipple, and he would send me home. He said, ''You're allergic to something,'' and that was it.

And when my face went back down, I'd come back to work and it would happen all over again. About the fourth time, I got to see Dr. Harriet Harding, who was a consultant there, and she interviewed me. Luckily, I got to see her. And she asked me where I worked, and I told her. She asked me what my duties were, and I told her that I run a mercury still when I didn't issue chemicals.

She said, ''You're operating what?''

I said, ''I operate a mercury still.''

She said, ''Take me up there and show it to me.''

So I did. She shut it down. And so we were full, me and Lewis Devetima were full of mercury. We used to heat it, and it had a still, like it was made out of glassware. It would go through this, heat it, and form a gas, go through that, come out condensed on that end, pure mercury. And we would breathe in vapors, and it was in a small 10 x 10. The old warehouse there in TA 1 was a shed. It was formerly the stable for the school that was there before the Lab took over, and they converted it into a chemical shop.

Anyway, when I retired in 1982—prior to 1982, I suffered from depression, bleeding gums, and so I went to the doctor there at the Lab. I was in very bad shape, and she sent me to a sanitarium in Albuquerque, and I spent some time there, about two or three weeks. I then was on an outpatient to Dr. Kenneth Poole there in Albuquerque for about three years.

And then I came back and was under the tutelage of Dr. William Oakes who worked for the H Division, and then he retired. And I saw Dr. Charles Shafer, and then he retired. And then I saw Dr. Ralph Greer. And anyway, when I retired, I noticed that there was no record of this sickness on my medical records.

And I asked Dr. Greer why. And he said they searched and they searched and they searched and they even went back into the microfilms, and they could find no evidence of anything to do with a mercury still or anything. So I retired thinking that.

When I testified before Mr. Bingaman and Mr. Udall and Mr. Michaels, I didn't have any evidence. It was my story against theirs. And I have met a fellow named Ken Silver. He found these letters from Dr. Harding telling the whole story in six letters, and the DOE database of historical documents, it tells the whole story about me and Devetima's sickness, about the mercury still, their shutting it down.

These are all H Division letters to our division leader, Van Gammer, Assistant Property Division leader. Yet they couldn't find them. There was no evidence. They're here, right here. Everything I have reverts back to those six letters. In one of them, she refers to a fellow name Carl Butler. I happen to know Carl Butler, so I wrote him a letter telling him what was happening. He wrote me back a five-page handwritten letter confirming everything that I said when I testified, everything, even to closing down and admitted that nobody in 1947 and 1948 in H Division knew anything about mercury until an industrial engineer named Harold Sheeton—Harry Sheeton—came on board, and this was months later.

And after I got that letter from Butler, I wrote a letter to Mr. Udall and Mr. Bingaman, asking him—I sent them a copy of those six letters. I didn't give them a copy of this, but I did take it to Mr. Udall's office, everything I had, when you were in Federal Place over there, and I gave it to Raul and he made copies of it. He said he would forward it on to you, your office.

And this is my letter to Senator Bingaman asking that you amend that Act to include mercury. I don't know what happened there. I got a letter from Mr. Udall there, and he asked that I get documentation. So I've got it. Don't you think I have it? And you asked for names and addresses of people that are working. I can give you names, Mr. Udall, but they all got one address: Cemetery. There's no—me and Mr. Butler are the only ones alive that I know that knew about that mercury still, and why I'm still around, I don't know.

After that, Mr. Silver came up with a couple more publications by Dr. Harriet Potter on mercury poisoning. Anybody that knows anything about mercury should read it. She even enlightened me. I guess she really dug in to her research. And in this—the other one is Challenging Manmade Decisions by Harriet Potter. I'll read you just one paragraph here.

On page 54 it tells about the year 1948 in Los Alamos, nonradioactive acting hazard material in use in Los Alamos. ''An example will make this clear. Very soon after I began active duty, a worker came to the nurse in H–2 complaining with bleeding gums and skin rash.'' That's me. ''In taking his job history, I found he and three other men were engaged in cleaning dirty mercury, an element widely used.

''Next, I visited the job site. And even though I had no engineering skill, I knew from my Massachusetts Department of Occupational Hygiene experience that the mercury hazard was great in this dirty, shed-like building.''

I could go on, but I haven't got time, but you get the drift. And I don't know where to go from here. I know mercury is not covered in the Act. Like I say, I'm asking you to amend it to include mercury. Thank you very much for listening to me. I'm probably out of time. (Applause.)

Mr. LEYBA: The next person will be Phil Schofield.

Mr. SCHOFIELD: Thank you for coming, Beverly Cook and Congressman Udall, Senator Bingaman, Mr. Turcic, Mr. Elliot. I'll try to keep my time short here.

I worked for Los Alamos National Lab for 2 years. I suffer from several severe health problems, multiple chemical sensitivities, HO cervical syndrome, respiratory problems, severe dermatology problems, swelling of my extremities. I have short-term memory and concentration deficits, and plus I lost almost half my hearing.

Mainly what I would like to address is some problems with the reconstruction of people's dosages. I can give you two quick examples where personnel worked in the same room. One was a—it depended on your job. You * * *

Mr. BUNNING. Mr. President, I rise today as a cosponsor of the Energy Workers Compensation Act of 2002, EWCA.

During the Cold War, workers employed at the Department of Energy sites across the country served our country by helping to make nuclear weapons. But, for over 50 years of manufacturing these weapons, we now know that the Department of Energy consistently sacrificed health and safety of the workers and placed them in harm's way without their knowledge. Many of these workers subsequently became ill due to their work with radioactive and toxic substances at the sites.

In 2000, Congress passed legislation, the Energy Employees Occupational Illness Compensation Program Act, EEOICPA, to establish compensation programs for Department of Energy workers who became sick as a result of their work. The bill addressed compensation for illnesses caused by the workers' exposure to radiation, beryllium, and numerous toxic substances. EEOICPA created two separate programs: Subtitle B of the law provided a program administered by the Department of Labor that would give a lump sum $150,000 payment to workers exposed to radiation and beryllium; and, subtitle D of the law provided a program administered by the Department of Energy that relied on State worker compensation programs to make compensation payments to workers exposed to toxic substances. Subtitle D is what the EWCA legislation addresses.

Currently, under subtitle D the Department of Energy uses a physician's panel to review workers' claims and determine whether a worker's illness is related to work at a Department of Energy site. Upon a positive finding, the panel relies upon individual State worker compensation programs to make payments for wage loss and medical benefits. The Department of Energy, however, has admitted that nearly half of the claimants will not be able to pinpoint a responsible payor who will be able to honor the Department of Energy Physician Panel finding because many contractors no longer are associated with DoE.

Congress intended a uniform and equitable Federal compensation program for these employees who worked to serve our country. The Government should not sit idly by and let this problem fester knowing that so many claimants will not receive any compensation.

Introduction of the Energy Workers Compensation Act of 2002 will fulfill the original legislative objectives of Congress to assure compensation to all of our country's energy workers who were made ill due to their work with toxic substances. The legislation would correct subtitle D by making the Department of Labor responsible for paying those sick workers who are determined eligible to receive compensation.

We are only now beginning to realize the dangers that the energy workers faced. These workers thought they were serving our country and were unaware of the risks they took to win the Cold War. We must do all we can to protect the energy workers to make sure they receive just compensation for the illnesses and disabilities they incurred from their jobs at the Department of Energy nuclear weapons sites.

By Mr. BAUCUS:

S. 3059. A bill to provide for the distribution of judgment funds to the Assiniboine and Sioux Tribes of the Fort Peck Reservation; to the Committee on Indian Affairs.

Mr. BAUCUS. Mr. President, I rise today to introduce a bill to provide for the use and distribution of judgment funds awarded to the Assiniboine and Sioux Tribes of the Fort Peck Reservation in northeast Montana.

In 1987, the Assiniboine and Sioux Tribes of the Fort Peck Reservation brought suit against the United States to recover interest earned on their trust funds while those funds were in Special Deposit and IMPL-Agency accounts. The case was filed in the United States Claims court, and docketed as No. 773–87–L.

After the Court ruled that the United States was liable to the Fort Peck Tribes and individual Indians for interest on those funds, the Tribes and the United States reached an agreement for settling claims in the case, for the sum of $4,522,551.84. The court approved the settlement agreement.

The settlement agreement further provided that the judgment be divided between the Fort Peck Tribes and those individual Indians who are found to be eligible to share in the judgment. On January 31, 2001, the court approved a stipulation between the parties that defined the procedures by which the Fort Peck Tribes' and individual Indians' respective shares in the judgment would be determined and distributed to them.

Pursuant to the Court-approved stipulation in the case, on February 14, 2001, a portion of the Tribe's share of the judgment was deposited into an account in Treasury for the use of the Fort Peck Tribes. As provided by the Court-approved stipulation, those funds are to be available for immediate use by the Tribe pursuant to a plan adopted under the Indian Tribal Judgment Funds Use or Distribution Act, 25 U.S.C. 1401 et seq. The Court-approved stipulation further recognized that the Tribe will most likely receive additional payments from this settlement once the work identifying all individuals eligible to share in the judgment is completed and the pro rata shares are finally computed. Those funds, too, are to be available for use by the Tribe in accord with a plan adopted under the Tribal Judgment Funds Use or Distribution Act.

As required by the stipulation and the Tribal Judgment Funds Use or Distribution Act, the Tribe developed a plan for the use of the Tribe's share of the settlement. Under the plan, the Tribe's share of the judgment will be used for tribal health, education, housing and social services program.

The Tribe submitted its plan to the Department of the Interior for review and approval. Public hearings were held during which the views and recommendations of Tribal members were heard regarding the plan. The Tribe has been advised that the Department of Interior has no objection to the Tribe's plan and can approve it. However, although the plan was developed and public hearing held during 2001, the Interior Department did not complete its review of the plan, nor submit the approved plan to Congress within the one-year deadline imposed by the Tribal Judgment Funds Use or Distribution Act. As a result, in order for the Fort Peck Tribe to make use of the judgment awarded to the Tribe, it is necessary for Congress to formally adopt legislation approving the Tribe's plan. The proposed bill language, would serve this purpose.

This judgment is based on money that rightfully belongs to the Fort Peck tribes and should be moved expeditiously through Congress. I look forward to working with the Committee on Indian Affairs to move this legislation forward.

By Mr. KENNEDY:

S. 3060. A bill to amend the Public Health Service Act to provide protections for human participants in research; to the Committee on Health, Education, Labor, and Pensions.

Mr. KENNEDY. Mr. President, today I am introducing legislation to achieve reforms in our system of oversight for protecting the safety of human subjects in research. As the Institute of Medicine report released today again demonstrates, reforms are long overdue. The moment has come to take action to restore the trust and confidence of those who serve as subjects in clinical trials and other forms of research.

We passed the National Research Act over twenty years ago as an important step toward protecting against inhuman research experiments and conditions. We have developed guidelines to ensure that people participating in medical research have clearly agreed to be a part of the study and will be treated humanely during the study.

These protections benefit the people participating as subjects in medical research, but they also help those conducting the research. If patients fear that they will not be protected or that the researchers do not have their best interests in mind, patients will not volunteer to take part in these needed tests.

As we all know, a revolution is taking place in medicine today. Scientists have mapped the human genome. They have made incredible breakthroughs in treatments for cancer and AIDS. It is not unreasonable to expect that we will see cancer cured, a quadriplegic stand up and walk, new drugs that prevent Alzheimer's and AIDS, and other advances we cannot even begin to imagine. But for all these advances to take place, new treatments will first have to be tested on human subjects. For these studies to succeed, patients must have confidence in our system and must be willing to participate in medical research. We must protect patients when they volunteer for these tests. To do otherwise would jeopardize this very hopeful future.

Many of those who participate in these studies are the most vulnerable members of our society and are the most in need of our protection. We are now benefiting from drugs that have been developed and tested outside the United States. Our country is based on the premise that all people are created equal. Basic protections that are good enough for research subjects in the United States should be good enough for research subjects in other nations who volunteer for tests that will benefit all of us.

We also must face the fact that medical research is constantly changing. Protections that were put in place 20 years ago no longer cover all human research projects. New studies in areas such as gene therapy have raised safety and ethical concerns requiring special scrutiny.

Institutional Review Boards, which review the safety and ethical acceptability of research involving human subjects, are overworked and underfunded. Loopholes in the system allow researchers who have had proposals rejected by one Board to reapply to a second Board in the hope of obtaining a more lenient review—all without notifying the second Board of the decision of the first. We do little to train researchers about methods for protecting human subjects. Many researchers with the best intentions are not knowledgeable of the latest changes to regulations.

These shortcomings cry out for a response, especially at this moment in history that holds so much promise for future medical research. The legislation I am introducing addresses these issues by expanding research subject protections and strengthening the review and oversight mechanisms to ensure that all human subjects are properly protected.

The legislation will, for the first time, ensure that all participants in such research are protected by a comprehensive and strong set of safeguards. The legislation provides clear statutory authorization for these protections and establishes a central office to review and amend current rules for the protections.

The legislation will improve Institutional Review Boards by strengthening firewalls against conflicts of interest and enhancing training for Board members. The bill will provide the Boards with the funding they need to be effective, by allowing human subject protection costs to be charged as direct costs on federal grants. The bill will end ''IRB shopping'', the practice in which a proposal rejected by one Board for ethical reasons is submitted to a second Board in the hope of obtaining a more lenient review. The legislation will require that every Board receives accreditation to assure that it is carrying out its duties effectively and rigorously.

The legislation will assist researchers in learning more about the best practices for protecting human subjects, by creating programs to improve

training for researchers in good research practices. The bill strengthens the firewalls against financial conflicts of interest for researchers, and will require the establishment of regulations to govern payment of research subjects.

The legislation will also enhance the ethical review of clinical trials conducted overseas with federal funding or submitted to FDA for review, by requiring that research conducted overseas that falls within U.S. regulatory jurisdiction must be reviewed and approved by a U.S. Institutional Review Board. The bill enhances the review of areas of research that raise special safety concerns, such as gene therapy and xenotransplantation.

We must act now to improve our protections for human research subjects, so that patients will feel confident enough to volunteer for the many vital research projects that will be developed in coming years. These reforms will have a significant role in improving medical care. But even more important, these safeguards will protect our fellow human beings. The people this bill protects are not numbers of statistics. They are someone's mother, daughter, or spouse. Mistakes and abuses that hurt them affect their families, friends, and communities.

We are a great people and a great nation. We are a moral people and an ethical nation. We must do all we can to see that our great medical advances of the future do not come at an unnecessary cost of death and suffering by patients who first volunteered to test these new medical treatments. I look forward to working with my colleagues to enact these needed reforms as soon as possible.

I ask unanimous consent that a section-by-section analysis of the bill be printed in the RECORD.

There being no objection, the analysis was ordered to be printed in the RECORD, as follows:

THE RESEARCH REVITALIZATION ACT

The current oversight system for protecting human subjects is overdue for reform. Rules for research subject protection do not cover all research. Protections for research subjects are largely based on regulation rather than statute. There is no Federal lead agency charged with amending and issuing guidance on the rules for research subject protections, resulting in an often confusing set of divergent regulations across different Federal research agencies. In addition, since no single agency can amend the research rules, the rules themselves have not been updated in years and have not kept pace with the changing nature of research. To address these problems, the bill will: 1. Ensure that all human subjects in all research are covered by strong protections. 2. Provide a clear statutory authorization for research subject protections. 3. Establish a central office to amend the rules for research subject protection.

Institutional Review Boards, IRBs are committees at universities and hospitals that review the safety and ethical acceptability of research involving human subjects. The IRB system is under severe strain for several reasons. First, IRBs are overworked and underfunded. Second, IRBs vary widely in their training and effectiveness. Third, conflicts of interest threaten the integrity or research. Fourth, investigators can engage in ''IRB shopping'' whereby a proposal rejected by one IRB for ethical reasons can be submitted to a second board in the hope of a more lenient review all without notifying the second IRB of the decision of the first. To address these problems the bill will: 1. Require accreditation of all IRBs to ensure that they do their jobs adequately. To be accredited, IRBs would not only have to review proposals to conduct research, but also monitor such research once it is initiated. 2. End ''IRB shopping'' by requiring notification of previous proposal rejection. 3. Establish rules for financial conflict of interest for IRB members. 4. Allow IRB expenses to be charged as direct costs on Federal grants, so that universities can give IRBs the resources they need to do their job. 5. Allow, on a voluntary basis, a central IRB to review projects conducted a multiple local research sites to provide for more effective and efficient review.

Investigators conducting human subject research are often poorly trained in protecting human subjects. As revealed by the controversies surrounding gene therapy, financial conflicts of interest can often compromise the objectivity or researchers. Finally, payment of research subjects is becoming common, but few standards have been established to govern when and how a subject can or should be compensated. To address these problems, the bill will: 1. Require HHS to establish a model program to train researchers in good research practices and then provide grants to allow universities to establish similar programs. 2. Strengthen current rules on financial conflict of interest for researchers. Numerous studies have shown that the existing system does a poor job in protecting against conflict of interest. The proposal follows recent recommendations by the AAMC. 3. Establish standards to govern payments to research subjects.

Research projects involving human subjects that use federal funds or support a submission to the FDA are subject to US regulations even when conducted overseas. When conducted on poorly educated and/or impoverished populations in nations with weak local oversight, such research raises special ethical concerns. First, subjects may not be adequately protected when an ethical review is conduced in a country without a strong infrastructure for research subject protection. Second, there are significant ethical concerns about conducting high-risk research on local populations who will never receive the benefits of the products being tested on them. Third, some subjects receive placebos or non-treatment, even when effective treatments are available and could be given to patients. The bill will: 1. Require review by a US-accredited IRB of all human subject research conducted overseas that falls within US regulatory jurisdiction. This requirement would be waived where standards of review are equivalent to those in the US, e.g. EU, Australia, Canada. 2. Require rules governing the use of placebos or non-treatment when effective therapies could be administered to research subjects.

Certain areas of research, such as gene therapy or xenotransplantation, raise unusual safety concerns. NBAC has recommended special scrutiny for such areas, beyond simple IRB review. The bill will require special monitoring of adverse events in clinical trials of such research so that threats to patient safety can be identified.

By Mr. LOTT:

S. 3061. A bill to impose greater accountability on the Tennessee Valley Authority with respect to capital investment decisions and financing operations by increasing Congressional and Executive Branch oversight; to the Committee on Environment and Public Works.

Mr. LOTT. Mr. President, the Tennessee Valley Authority has long served as an engine for economic development in my part of the country and has enjoyed widespread support for its efforts to provide power that is needed to fuel the economy and enhance the quality of life of those it serves. It is my desire to assist the TVA in continuing its legacy and carrying out its mission. To provide that assistance, the Congress, the Administration, and the TVA itself must determine whether TVA's policies, practices, and long-term strategies are consistent with the realities of today's marketplace.

The TVA is at a crossroads in its illustrious history. The United States taxpayer and the power consumers in the TVA service area have provided the capital necessary to develop, finance, and operate one of the largest, if not the largest, public power systems in history. The TVA is now facing a number of challenges with respect to its existing generating system in the form of environmental compliance, aging and obsolete plants, and the urgent need to provide additional generating capacity to meet the demands of the future. It is my belief that the United States taxpayer is unwilling and unable to continue to bear the financial burden and risks associated with addressing these challenges.

The reality of the marketplace for energy and the political imperatives with which we are confronted mandate that any new financing strategies and supplemental sources of capital be considered and utilized by the TVA. Likewise, we need to review and analyze the short-term and long-term financing and risk management strategies employed by the TVA with respect to its almost $26 billion of debt.

During 2002, we have witnessed the results of risky and sometimes corrupt corporate financing and management practices. Although I have no reason to believe that TVA has been involved in any such practices, I believe we have a responsibility to the taxpayers to examine the financing and disclosure practices of the TVA to ensure that their investment is being protected. I note that TVA has utilized short-term financing facilities and derivative securities as hedging and interest rate management techniques. We need to better understand the risks and rewards associated with these strategies.

The legislation that I am introducing today would require that the TVA provide the Congress and the Administration with a 10-year business outlook and strategic plan with respect to its development and financing needs, as well as an analysis of its ongoing financing and risk management strategies. During the period in which the

TVA is responding to this Congressional mandate, the TVA would be required to cease and desist from incurring new obligations or entering into any arrangements for the development or financing of new, additional, or replacement plant, equipment, or capacity. Likewise, during this period the TVA would be required to gain the concurrence of the Director of the Office of Management and Budget and the appropriate Senate and House Committee leaders before undertaking any additional financing or refinancing activities. The legislation specifically provides for the necessary flexibility for the TVA to continue normal operations and fund necessary maintenance activities while complying with this Congressional mandate.

I strongly support the TVA and I recognize its importance to the economic health of several states in the southeastern United States, including my own. Indeed, the TVA is a critical component of the infrastructure that supports the economy of the entire United States. It is my desire in introducing this legislation that the TVA be positioned to meet the challenges of the 21st Century. Introduction of this legislation is the first step to help the TVA achieve that goal.

By Mr. CRAIG

S. 3062. A bill to direct the Secretary of agriculture to conduct a study of the effectiveness of silver-based biocides as an alternative treatment to preserve wood; to the Committee on Agriculture, Nutrition, and Forestry.

Mr. CRAIG. Mr. President, today I am introducing the Wood Preservation Safety Act of 2002. If enacted, this legislation would authorize the Forest Products Laboratory of the U.S. Forest Service to study the effectiveness of silver-based biocides as a wood preservative treatment.

According to silver experts and academics, silver biocides could serve as a viable, safe and cost effective alternative wood preservative. Given silver's long-standing role as an effective biocide, testing should be undertaken to determine silver's suitability as a wood preservative. Thus, I feel it is important to study and fully explore the potential of silver as a wood preservative.

Mining has been an important part of Idaho's history since the late 1800s. It became Idaho's first industry and remains a critical part of Idaho and the nation's economy. Mining in Idaho has supplied the nation with minerals necessary for today's modern lifestyle which many of us take for granted. In 1985, the mines of Idaho's Coeur d'Alene mining district produced their one billionth ounce of silver. The Sunshine Mine was America's richest silver mine, producing over 300 million ounces of silver, more than the entire output of Nevada's famous Comstock Lode. Silver contributes to our quality of life in many ways, and its use as a biocide in wood products is an important application that must be explored.

I look forward to working with my colleagues to pass legislation that would create a comprehensive research program to test the viability of silver-based biocides for the treatment of wood products.

STATEMENTS ON SUBMITTED RESOLUTIONS

SENATE RESOLUTION 333—EXPRESSING THE SENSE OF THE SENATE RELATING TO A DISPUTE BETWEEN THE PACIFIC MARITIME ASSOCIATION AND THE INTERNATIONAL LONGSHORE AND WAREHOUSE UNION

Mr. HUTCHINSON (for himself, Mr. LOTT, Mr. HELMS, Mr. HAGEL, Mr. BURNS, Mr. CRAIG, Mr. ROBERTS, Mr. ALLARD, Mr. VOINOVICH, Mr. CRAPO, Mr. ENSIGN, Mr. DEWINE, Mr. BOND, Mr. FRIST, Mr. WARNER, and Mr. HATCH) submitted the following resolution, which was referred to the Committee on Health, Education, Labor, and Pensions:

S. RES. 333

Whereas the ongoing dispute between the Pacific Maritime Association and the International Longshore and Warehouse Union, relating to a collective bargaining agreement, has shut down 29 West Coast ports;

Whereas this dispute has sent harmful economic reverberations far beyond the shipping industry, the West Coast, or even the borders of the United States;

Whereas 7 percent of the Nation's gross domestic product travels through those ports and the flow of goods in and out of those ports is critical to the operation of businesses, farms, and factories, and the business of retailers and consumers, all across the United States;

Whereas the stay of all West Coast transport by sea has already prevented farmers from selling their crops, shut down manufacturing plants, idled trucks and trains, and precluded consumers from purchasing goods;

Whereas, due to the interruption of the flow of commerce caused by the dispute, thousands of persons in the United States have been laid off and are living without a paycheck through no fault of their own;

Whereas the United States is already enduring an economic recession and high unemployment; and

Whereas if the shutdown of those ports continues, the shutdown will present a serious threat to the Nation's safety and health: Now, therefore, be it

Resolved,

SECTION 1. SENSE OF THE SENATE.

It is the sense of the Senate that—

(1) the Pacific Maritime Association and the International Longshore and Warehouse Union should enter into mediation to resolve the dispute, adopt 24–hour extensions of the expired collective bargaining agreement, and end the current lockout; and

(2) if the Pacific Maritime Association and the International Longshore and Warehouse Union do not reach a settlement or reopen the ports through that mediation during a reasonable period (as determined by the President), the President should appoint a board of inquiry, to begin the emergency dispute-settling procedure under the Labor-Management Relations Act, 1947.

Mr. HUTCHINSON. Mr. President, today, many of my colleagues have joined me in submitting a resolution urging the President to invoke the Taft Hartley emergency dispute resolution procedures in response to the complete shutdown of twenty-nine West Coast ports due to a labor dispute. I deeply regret that this legislation is necessary, but the grave economic consequences of the shutdown and the serious ramifications on our country's ability to improve homeland security have made it so.

It is estimated that 7 percent of our Nation's gross domestic product flow through these ports. However, that does not begin to calculate the cost to the workers and families who are and will be affected by this impasse. Transportation of products to West Coast ports has been shut down. The jobs of railroad employees, barge employees, and independent truck drivers, whose livelihoods all depend upon the flow of goods in and out these ports, are being endangered by this dispute. In addition, manufacturers who are unable to move products are facing unexpected storage costs that have already resulted in thousands of layoffs.

In the agriculture sector, the inability to ship grains, vegetables, livestock, and other perishables is having a catastrophic effect on farmers and ranchers, many of whom are already facing consecutive years of drought and economic hardship. The ability to move agricultural products and sell them to foreign markets when prices are best is essential to the health of rural communities across our country. In addition, the inability to move these products off our own domestic market threatens to push commodity and livestock prices even lower. Agricultural producers and marketers have spent millions of dollars to open and develop Asian markets amidst heavy competition from Canada, Australia, and many other countries vying for access. This dispute is threatening thousands of jobs and years of work to increase trade with these emerging markets.

At a time when the country is already experiencing economic hardships, this shutdown is jeopardizing the jobs and livelihoods of thousands of citizens across our country. From auto-workers in Michigan and Missouri to rice and wheat farmers in Arkansas and Kansas, the human cost of this dispute far exceeds the financial and technical issues that have provoked it.

This resolution calls on the Pacific Maritime Association and the International Longshore and Warehouse Union to adopt 24-hour extensions of the expired collective bargaining agreement and end the current lockout while they go through mediation.

It also urges the President to appoint a board of inquiry and begin the emergency dispute settling procedures called for under the Taft Hartley Labor Management Relations Act, 1947, if he determines that mediation has failed.

My colleagues and I have taken this action out of concern for our home states and the safety and health of the