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HOUSE JOINT MEMORIAL 16
46TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2003
INTRODUCED BY
Raymond M. Ruiz

A JOINT MEMORIAL
REQUESTING THE STATE'S CONGRESSIONAL DELEGATION TO SUPPORT
REFORMS TO THE ENERGY EMPLOYEES OCCUPATIONAL ILLNESS
COMPENSATION PROGRAM ACT OF 2000.

WHEREAS, the federal Energy Employees Occupational Illness Compensation Program Act of 2000 was enacted to provide compensation to those veterans of the cold war who were employed by the United States department of energy and who were made ill from exposure to radiation, beryllium and other toxic substances; and

WHEREAS, the number of New Mexicans who have received benefits pursuant to that act is small compared to the number of recipients in other states; and

WHEREAS, on August 14, 2002, the United States department of energy issued regulations to implement a portion of that act

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1 to provide physician-panel determinations on occupational
2 illnesses for contractor employees exposed to toxic substances
3 at department of energy facilities; and

4 WHEREAS, the United States department of energy is
5 encountering significant delays in securing physician panel
6 review of claims and, at the current rate of implementation,
7 claimants will wait one hundred sixty-six years to receive
8 findings on their claims; and

9 WHEREAS, families filing claims have experienced delays in
10 access to medical and exposure records, incident reports and
11 confirmations of job histories; and

12 WHEREAS, the contractor performing radiation dose
13 reconstructions for the national institute for occupational
14 safety and health has reportedly admitted conflicts of
15 interest; and

16 WHEREAS, the federal act restrains contractors who operate
17 United States department of energy facilities from contesting
18 state workers' compensation claims for illnesses induced by
19 toxic chemicals, claims that have been found by physician
20 panels to be meritorious; and

21 WHEREAS, the United States department of energy has
22 conceded it may not have a willing payor through state workers'
23 compensation programs for claims that are deemed meritorious by
24 physician panels; and

25 WHEREAS, legislation was introduced in the one hundred

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1 seventh congress, with bipartisan support, that established
2 deadlines for the administration of claims and that provided
3 for a federal willing payor to equitably administer disability
4 payments and meritorious medical claims; and

5 WHEREAS, some New Mexicans with meritorious claims were
6 unfairly denied state workers' compensation in the years prior
7 to passage of the federal act, and these individuals and their
8 survivors should not be left behind without a willing payor;
9 and

10 WHEREAS, New Mexico's large population of potentially
11 eligible claimants should not have to wait another generation
12 or more to be compensated for their occupational illnesses; and

13 WHEREAS, the thousands of New Mexicans who risked their
14 lives and good health in the service of their country should be
15 compensated before they die;

16 NOW, THEREFORE, BE IT RESOLVED BY THE LEGISLATURE OF THE
17 STATE OF NEW MEXICO that the state's congressional delegation
18 be requested to pursue legislation to amend the Energy
19 Employees Occupational Illness Compensation Program Act of 2000
20 to ensure that:

21 A. there is a willing payor for every meritorious
22 claim, including those claims that were previously denied under
23 state workers' compensation programs;

24 B. the United States department of energy concludes
25 its reviews of claims within one hundred eighty days;

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1 C. a non-adversarial forum be established to
2 resolve claims independent of state workers' compensation
3 programs;

4 D. those employees who are unable to obtain records
5 establishing past exposures and employees whose claims of
6 radiation exposure are in jeopardy of being denied due to
7 scientific uncertainty in causation determinations should
8 receive the benefit of the doubt and be compensated under the
9 federal act;

10 E. chronic renal disease in workers exposed to
11 uranium be recognized as a compensable illness;

12 F. special exposure cohorts be established for
13 employees in area g and the linear accelerator, and for
14 security guards and all construction workers, due to the
15 impossibility of accurately reconstructing past radiation
16 doses;

17 G. a program of technical assistance grants be
18 created to enable community- and labor-based organizations to
19 assist claimants; and

20 - H. congressional oversight hearings be held to
21 investigate whether the energy employees occupational illness
22 compensation program is meeting the needs of claimants in New
23 Mexico; and

24 BE IT FURTHER RESOLVED that the federal secretary of
25 energy, the federal secretary of health and human services and

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1 the federal secretary of labor, each of whom shares
2 responsibilities for implementing the energy employees
3 occupational illness compensation program, be requested to
4 redouble their efforts to ensure that the program achieves its
5 intended purpose of providing benefits to the people of New
6 Mexico who were made ill while employed at federal department
7 of energy facilities; and

8 BE IT FURTHER RESOLVED that copies of this memorial be
9 transmitted to the members of the New Mexico congressional
10 delegation and to the cabinet secretaries of the departments of
11 energy, health and human services and labor.

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