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FISCAL IMPACT REPORT

SPONSOR Ruiz **DATE TYPED** 1/26/04 **HB** HJM 20

SHORT TITLE Reform Energy Employee Work Illness Program **SB** _____

ANALYST Wilson

APPROPRIATION

Appropriation Contained		Estimated Additional Impact		Recurring or Non-Rec	Fund Affected
FY04	FY05	FY04	FY05		
		NFI			

SOURCES OF INFORMATION

LFC Files

SUMMARY

Synopsis of Bill

House Joint Memorial 20 requests the State's congressional delegation to support reforms to the Federal Energy Employees Occupational Illness Compensation Program Act of 2000. Each member of the New Mexico congressional delegation is asked to report in writing to the legislature on progress.

The federal Secretary of Energy, the federal Secretary of Health and Human Services and the federal Secretary of Labor, each of whom shares responsibilities for implementing the energy employees occupational illness compensation program, are requested to redouble their efforts to ensure that the program achieve its intended purpose of providing benefits to the people of New Mexico who were made ill while employed at federal Department of Energy facilities. Each department is to provide an annual written report to the legislature on the progress of the memorial resolutions since 2000, when the federal Energy Employees Occupational Illness Compensation Program Act of 2000 was enacted.

HJM requests the congressional delegation to ensure:

- There is a willing payor for every meritorious claim, including those claims that were previously denied under state workers' compensation programs.

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- The United States Department of Energy (USDOE) concludes its reviews of claims within one hundred eighty days.
- Employees who are unable to obtain records establishing past exposures and employees whose claims of radiation exposure are in jeopardy of being denied due to scientific uncertainty in causation determinations should receive the benefit of the doubt and is compensated under the federal act.
- Chronic renal disease in workers exposed to uranium is recognized as a compensable illness.
- A non-adversarial forum is established to resolve claims independent of state Workers' Compensation Programs.
- Special exposure cohorts are established for employees in area G and the linear accelerator at Los Alamos national laboratory, and for security guards and all construction workers, due to the impossibility of accurately reconstructing past radiation doses.
- A program of technical assistance grants is created to enable community- and labor-based organizations to assist claimants.
- Congressional oversight hearings are held to investigate whether the energy employees occupational illness compensation program is meeting the needs of claimants in New Mexico.

Significant Issues

- 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 USDOE and who were made ill from exposure to radiation, beryllium and other toxic substances.
- The number of New Mexicans who have received benefits pursuant to that act is small compared to the number of recipients in other states.
- On August 14, 2002, the USDOE issued regulations to implement a portion of that act to provide physician-panel determinations on occupational illnesses for contractor employees exposed to toxic substances at department of energy facilities.

The USDOE is encountering significant delays in securing physician-panel review of claims and, at the current rate of implementation, claimants will wait one hundred sixty-six years to receive findings on their claims.

Families filing claims have experienced delays in access to medical and exposure records, incident reports and confirmations of job histories.

- The contractor performing radiation dose reconstructions for the national institute for occupational safety and health has reportedly admitted conflicts of interest.

- The federal act restrains contractors who operate USDOE facilities from contesting state workers' compensation claims for illnesses induced by toxic chemicals, claims that have been found by physician panels to be meritorious.

USDOE has conceded it may not have a willing payor through state Workers' Compensation Programs for claims that are deemed meritorious by physician panels.

- Legislation was introduced in the one hundred seventh congress, with bipartisan support, that established deadlines for the administration of claims and that provided for a federal willing payor to equitably administer disability payments and meritorious medical claims.
- Some New Mexicans with meritorious claims were unfairly denied state Workers' Compensation in the years prior to passage of the federal act, and these individuals and their survivors should not be left behind without a willing payor.
- Special exposure cohort status is awarded to a worker who proves that, within a minimum of two hundred fifty days of employment and with a doctor's confirmation of exposure to beryllium, he has developed cancer or silicosis and is automatically qualified for the federal energy employees occupational illness compensation program.

Workers at facilities in other states who were exposed to types of radiation and toxic substances similar to those to which Los Alamos national laboratory workers were exposed were awarded special exposure cohort status, while Los Alamos national laboratory workers were not.

- New Mexico's large population of potentially eligible claimants should not have to wait another generation or more to be compensated for their occupational illnesses.

The thousands of New Mexicans who risked their lives and good health in the service of their country should be compensated before they die.

FISCAL IMPLICATIONS

There are no fiscal implications to the State.

DW/njw:lg