

103<sup>D</sup> CONGRESS  
2<sup>D</sup> SESSION

# S. 2254

To amend the Energy Reorganization Act of 1974 to establish an Independent Nuclear Safety Board, and for other purposes.

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## IN THE SENATE OF THE UNITED STATES

JUNE 30 (legislative day, JUNE 7), 1994

Mr. BIDEN introduced the following bill; which was read twice and referred to the Committee on Environment and Public Works

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## A BILL

To amend the Energy Reorganization Act of 1974 to establish an Independent Nuclear Safety Board, and for other purposes.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

3       **SECTION 1. SHORT TITLE.**

4       This Act may be cited as the “Independent Nuclear  
5       Safety Board Act of 1994”.

6       **SEC. 2. FINDINGS AND PURPOSE.**

7       (a) FINDINGS.—Congress finds that there is a great  
8       need for—

9               (1) vigorous investigation of events at facilities,  
10       or involving materials, licensed or otherwise regu-

1       lated by the Nuclear Regulatory Commission that  
2       could adversely affect public health or safety; and

3           (2) continual review and assessment of licensing  
4       and other regulatory practices of the Nuclear Regu-  
5       latory Commission, which may result in conclusions  
6       critical of the Nuclear Regulatory Commission or of-  
7       ficials of the Commission.

8       (b) PURPOSE.—The purpose of this Act is to estab-  
9       lish an Independent Nuclear Safety Board which shall pro-  
10      mote nuclear safety by—

11           (1) conducting independent investigations of  
12      events at facilities, or involving materials, licensed or  
13      otherwise regulated by the Nuclear Regulatory Com-  
14      mission that could adversely affect public health or  
15      safety;

16           (2) reviewing and assessing the licensing and  
17      other regulatory practices of the Nuclear Regulatory  
18      Commission;

19           (3) recommending to the Nuclear Regulatory  
20      Commission improvements in licensing and related  
21      regulatory practices; and

22           (4) informing Congress of findings and rec-  
23      ommendations of the Board that result from the in-  
24      vestigations referred to in paragraph (1).

1 **SEC. 3. ESTABLISHMENT OF NUCLEAR SAFETY BOARD.**

2 Title II of the Energy Reorganization Act of 1974  
3 (42 U.S.C. 5841 et seq.) is amended by adding at the end  
4 the following new section:

5 **“SEC. 212. INDEPENDENT NUCLEAR SAFETY BOARD.**

6 “(a) ESTABLISHMENT.—There is established a board  
7 to be known as the ‘Independent Nuclear Safety Board’  
8 (referred to in this section as the ‘Board’).

9 “(b) MEMBERSHIP.—

10 “(1) IN GENERAL.—The Board shall be com-  
11 posed of 3 members appointed by the President, by  
12 and with the advice and consent of the Senate, from  
13 among respected experts in the field of commercial  
14 nuclear energy with a demonstrated competence and  
15 knowledge relevant to the independent investigative  
16 and prescriptive functions of the Board. Not more  
17 than 2 members of the Board shall be members of  
18 the same political party. Not later than 90 days  
19 after the date of enactment of this section, the  
20 President shall submit the nominations for appoint-  
21 ment to the Board.

22 “(2) VACANCIES.—Any vacancy in the member-  
23 ship of the Board shall be filled in the same manner  
24 in which the original appointment was made.

25 “(3) FINANCIAL INTERESTS.—No member of  
26 the Board shall—

1           “(A) have any significant financial rela-  
2           tionship in any firm, company, corporation, or  
3           other business entity that is engaged in an ac-  
4           tivity regulated by the Nuclear Regulatory  
5           Commission (referred to in this section as the  
6           ‘Commission’) as a licensee or contractor; or

7           “(B) have had such a relationship within  
8           the 2-year period preceding the appointment of  
9           the member.

10          “(c) CHAIRPERSON.—

11           “(1) IN GENERAL.—The Chairperson and Vice  
12           Chairperson of the Board shall be designated by the  
13           President. The Chairperson and Vice Chairperson  
14           may be reappointed.

15          “(2) FUNCTIONS.—

16           “(A) IN GENERAL.—The Chairperson shall  
17           be the chief executive officer of the Board and  
18           shall, subject to such policies as the Board may  
19           establish, exercise the functions of the Board  
20           with respect to—

21                   “(i) the appointment and supervision  
22                   of personnel employed by the Board;

23                   “(ii) the organization of any adminis-  
24                   trative units established by the Board; and

1                   “(iii) the use and expenditure of  
2                   funds.

3                   “(B) DELEGATION.—The Chairperson may  
4                   delegate any of the functions under this para-  
5                   graph to any other member of the Board or to  
6                   any appropriate employee or officer of the  
7                   Board.

8                   “(3) VICE CHAIRPERSON.—The Vice Chair-  
9                   person shall act as Chairperson in the case of the  
10                  absence or incapacity of the Chairperson or in the  
11                  case of a vacancy in the office of Chairperson.

12                  “(d) TERMS OF MEMBERS.—

13                       “(1) IN GENERAL.—Except as provided in para-  
14                       graph (2), each member of the Board shall serve for  
15                       a term of 6 years. A member of the Board may be  
16                       reappointed.

17                       “(2) INITIAL MEMBERS.—Of the members first  
18                       appointed to the Board—

19                               “(A) 1 member shall be appointed for a  
20                               term of 2 years;

21                               “(B) 1 member shall be appointed for a  
22                               term of 4 years; and

23                               “(C) 1 member shall be appointed for a  
24                               term of 6 years;

1 as designated by the President at the time of ap-  
2 pointment.

3 “(3) SPECIAL TERMS.—Any member appointed  
4 to fill a vacancy occurring before the expiration of  
5 the term of office for which the predecessor of the  
6 member was appointed shall be appointed only for  
7 the remainder of the term. A member may serve  
8 after the expiration of the term of the member until  
9 a successor has taken office.

10 “(4) REMOVAL.—Any member of the Board  
11 may be removed by the President for inefficiency,  
12 neglect of duty, or malfeasance in office.

13 “(e) QUORUM.—Two members of the Board shall  
14 constitute a quorum, but a lesser number may hold hear-  
15 ings.

16 “(f) FUNCTIONS AND AUTHORITIES.—

17 “(1) INVESTIGATIONS.—

18 “(A) IN GENERAL.—

19 “(i) INVESTIGATIONS BY BOARD.—

20 The Board shall investigate any event at  
21 any facility, or involving any material, li-  
22 censed or otherwise regulated by the Com-  
23 mission, that the Board determines to be  
24 significant because the event could—

1 “(I) adversely affect public health  
2 or safety; or

3 “(II) be the precursor of an event  
4 that could adversely affect public  
5 health or safety.

6 “(ii) INVESTIGATIONS BY COMMIS-  
7 SION.—The Board may request the Com-  
8 mission to carry out an investigation of an  
9 event described in clause (i) and to report  
10 the findings of the Commission to the  
11 Board in a timely fashion. Whenever the  
12 Commission concludes such an investiga-  
13 tion, the Board may analyze the findings  
14 of the Commission for the purpose of mak-  
15 ing its own conclusions and recommenda-  
16 tions.

17 “(B) PURPOSE OF INVESTIGATIONS.—The  
18 purpose of a Board investigation of an event  
19 under this paragraph shall be—

20 “(i) to ascertain information concern-  
21 ing the circumstances of the event, and the  
22 implications of the event for public health  
23 and safety;

24 “(ii) to determine whether the event is  
25 part of a pattern of similar events at 1 or

1 more facilities, or involving any material,  
2 licensed or otherwise regulated by the  
3 Commission that could—

4 “(I) adversely affect public health  
5 or safety; or

6 “(II) be the precursor of an event  
7 that could adversely affect public  
8 health or safety; and

9 “(iii) to provide such recommenda-  
10 tions to the Commission for changes in li-  
11 censing, safety regulations and require-  
12 ments, and other regulatory policy as may  
13 be prudent or necessary.

14 “(2) ANALYSIS OF OPERATIONAL DATA.—For  
15 purposes of carrying out this section, the Board  
16 shall have access to and may systematically  
17 analyze—

18 “(A) operational data from any facility, or  
19 involving any material, licensed or otherwise  
20 regulated by the Commission to determine  
21 whether there exist certain patterns of events  
22 that indicate safety problems; and

23 “(B) operational data of the Commission  
24 including personnel and files.

1           “(3) SPECIAL STUDIES.—The Board may con-  
2           duct special studies pertaining to nuclear safety at  
3           any facility, or involving any material, licensed or  
4           otherwise regulated by the Commission.

5           “(4) EVALUATION OF SUGGESTIONS.—The  
6           Board may evaluate suggestions received from the  
7           scientific and industrial communities, and from the  
8           interested public, on specific measures to improve  
9           safety at any facility, or involving any material, li-  
10          censed or otherwise regulated by the Commission.

11          “(5) RECOMMENDATIONS TO COMMISSION.—

12               “(A) IN GENERAL.—The Board shall rec-  
13               ommend to the Commission specific measures  
14               that should be adopted to minimize the likeli-  
15               hood that events will occur at any facility, or  
16               involving any material, licensed or otherwise  
17               regulated by the Commission, that could ad-  
18               versely affect public health or safety. The Com-  
19               mission shall respond in writing to the rec-  
20               ommendations of the Board not later than 120  
21               days after receipt of the recommendations. The  
22               written response shall detail specific measures  
23               adopted by the Commission in response to the  
24               recommendations, and explanations for the in-

1 action of the Commission on recommendations  
2 the Commission chose to reject.

3 “(B) SUBMISSION TO CONGRESS.—The  
4 recommendations of the Board made pursuant  
5 to subparagraph (A) shall be submitted to Con-  
6 gress.

7 “(6) REPORTING REQUIREMENTS.—

8 “(A) IN GENERAL.—For purposes of inves-  
9 tigations, the Board shall establish reporting re-  
10 quirements that shall be binding on—

11 “(i) any person who operates, designs,  
12 supplies, maintains, or is otherwise in-  
13 volved with the operation or construction  
14 of, a facility licensed or otherwise regu-  
15 lated by the Commission; and

16 “(ii) any person who processes, stores,  
17 transports, uses, or possesses a material li-  
18 censed or otherwise regulated by the Com-  
19 mission.

20 “(B) PROTECTED MATERIAL.—

21 “(i) REPORTING.—The information  
22 that the Board may require to be reported  
23 under this paragraph may include any ma-  
24 terial designated as classified material pur-  
25 suant to the Atomic Energy Act of 1954

1 (42 U.S.C. 2011 et seq.), or any informa-  
2 tion designated as safeguards information  
3 and protected from disclosure under sec-  
4 tion 147 of such Act (42 U.S.C. 2167).

5 “(ii) PUBLIC ACCESS.—Information  
6 received by the Board shall be made avail-  
7 able to the public in accordance with the  
8 applicable provisions of subsections (a) and  
9 (b) of section 306 of the Independent Safe-  
10 ty Board Act of 1974 (49 U.S.C. App.  
11 1905).

12 “(7) HEARINGS.—

13 “(A) IN GENERAL.—The Board or, on the  
14 authorization of the Board, any member of the  
15 Board, may, for the purpose of carrying out  
16 this section, hold such hearings and sit and act  
17 at such times and places, administer such  
18 oaths, and require, by subpoena or otherwise,  
19 the attendance and testimony of such witnesses  
20 and the production of such evidence as the  
21 Board or the authorized member determines ad-  
22 visable.

23 “(B) SUBPOENAS.—

24 “(i) IN GENERAL.—A subpoena may  
25 be issued only under the signature of the

1 Chairperson, or any member of the Board  
2 designated by the Chairperson, and shall  
3 be served by any person designated by the  
4 Chairperson or the member. The attend-  
5 ance of witnesses and the production of  
6 evidence may be required from any place in  
7 the United States at any designated place  
8 of hearing in the United States.

9 “(ii) OATHS.—Any member of the  
10 Board may administer an oath or affirma-  
11 tion to a witness appearing before the  
12 Board.

13 “(iii) ENFORCEMENT.—Any person  
14 who willfully neglects or refuses to qualify  
15 as a witness, or to testify, or to produce  
16 any evidence in obedience to any subpoena  
17 duly issued under the authority of this  
18 paragraph, shall be fined not more than  
19 \$5,000, or imprisoned for not more than  
20 180 days, or both. Upon certification by  
21 the Chairperson of the Board of the facts  
22 concerning any willful disobedience by any  
23 person to the United States attorney for  
24 any judicial district in which the person re-  
25 sides or is found, the attorney may proceed

1 by information for the prosecution of the  
2 person for the offense.

3 “(8) REPORTS.—

4 “(A) IN GENERAL.—The Board shall issue  
5 periodic reports that shall be made available to  
6 Congress, and to Federal, State, and local gov-  
7 ernment agencies concerned with safety at a fa-  
8 cility, or involving any material, licensed or oth-  
9 erwise regulated by the Commission. The re-  
10 ports shall be made available to other interested  
11 persons on request.

12 “(B) CONTENTS.—Each report shall con-  
13 tain—

14 “(i) the major findings of the Board  
15 investigations; and

16 “(ii) recommendations of—

17 “(I) specific measures to reduce  
18 the likelihood of a recurrence of nu-  
19 clear events similar to events inves-  
20 tigated by the Board; and

21 “(II) corrective steps imple-  
22 mented or required by the Commis-  
23 sion to enhance or improve safety con-  
24 ditions at facilities investigated by the

1 Board and other facilities as consid-  
2 ered appropriate by the Board.

3 “(9) STAFF AND CONSULTANTS.—In accord-  
4 ance with the civil service laws and regulations, the  
5 Chairperson of the Board may hire staff and employ  
6 consultants for the purpose of carrying out the func-  
7 tions and duties of the Board under this subsection.

8 “(10) EVENTS.—As used in this subsection, the  
9 term ‘event’ includes an action or failure to act by  
10 any person, including the Commission as an organi-  
11 zation and the staff of the Commission, or a con-  
12 tinuing series of actions or failures to act by any  
13 such person, including operational failures, that the  
14 Board determines have a potentially adverse effect  
15 on public health or safety as described in paragraph  
16 (1).

17 “(g) TRANSFER OF FUNCTIONS.—There are trans-  
18 ferred to the Board—

19 “(1) all functions of the Office for Analysis and  
20 Evaluation of Operational Data of the Commission  
21 relating to the functions of the Board described in  
22 subsection (f); and

23 “(2) such personnel from the Office for Analy-  
24 sis and Evaluation of Operational Data as the Direc-  
25 tor of the Office of Management and Budget deter-

1        mines are necessary to carry out the functions de-  
2        scribed in subsection (f).

3        “(h) AUTHORIZATION OF APPROPRIATIONS.—There  
4        are authorized to be appropriated to carry out this section  
5        \$10,000,000 for each of fiscal years 1995 through 2000.

6        “(i) TERMINATION.—The Board shall terminate on  
7        September 30, 2000.”.

○

S 2254 IS——2