

107TH CONGRESS
1ST SESSION

S. 1417

AN ACT

To authorize appropriations for fiscal year 2002 for defense activities of the Department of Energy, 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 “Department of Energy
5 National Security Act for Fiscal Year 2002”.

1 SEC. 2. TABLE OF CONTENTS.

2 The table of contents for this Act is as follows:

- Sec. 1. Short title.
- Sec. 2. Table of contents.
- Sec. 3. Congressional defense committees defined.

**TITLE XXXI—DEPARTMENT OF ENERGY NATIONAL
SECURITY PROGRAMS**

Subtitle A—National Security Programs Authorizations

- Sec. 3101. National Nuclear Security Administration.
- Sec. 3102. Defense environmental restoration and waste management.
- Sec. 3103. Other defense activities.
- Sec. 3104. Defense environmental management privatization.
- Sec. 3105. Defense nuclear waste disposal.

Subtitle B—Recurring General Provisions

- Sec. 3121. Reprogramming.
- Sec. 3122. Limits on minor construction projects.
- Sec. 3123. Limits on construction projects.
- Sec. 3124. Fund transfer authority.
- Sec. 3125. Authority for conceptual and construction design.
- Sec. 3126. Authority for emergency planning, design, and construction activities.
- Sec. 3127. Funds available for all national security programs of the Department of Energy.
- Sec. 3128. Availability of funds.
- Sec. 3129. Transfer of defense environmental management funds.
- Sec. 3130. Transfer of weapons activities funds.

**Subtitle C—Program Authorizations, Restrictions, and
Limitations**

- Sec. 3131. Limitation on availability of funds for weapons activities for facilities and infrastructure.
- Sec. 3132. Limitation on availability of funds for other defense activities for national security programs administrative support.
- Sec. 3133. Nuclear Cities Initiative.
- Sec. 3134. Construction of Department of Energy operations office complex.

**Subtitle D—Matters Relating to Management of National
Nuclear Security Administration**

- Sec. 3141. Establishment of position of Deputy Administrator for Nuclear Security.
- Sec. 3142. Responsibility for national security laboratories and weapons production facilities of Deputy Administrator of National Nuclear Security Administration for Defense Programs.
- Sec. 3143. Clarification of status within the Department of Energy of administration and contractor personnel of the National Nuclear Security Administration.
- Sec. 3144. Modification of authority of Administrator for Nuclear Security to establish scientific, engineering, and technical positions.

Subtitle E—Other Matters

- Sec. 3151. Improvements to Energy Employees Occupational Illness Compensation Program.
- Sec. 3152. Department of Energy counterintelligence polygraph program.
- Sec. 3153. One-year extension of authority of Department of Energy to pay voluntary separation incentive payments.
- Sec. 3154. Additional objective for Department of Energy defense nuclear facility work force restructuring plan.
- Sec. 3155. Modification of date of report of Panel to Assess the Reliability, Safety, and Security of the United States Nuclear Stockpile.
- Sec. 3156. Reports on achievement of milestones for National Ignition Facility.
- Sec. 3157. Support for public education in the vicinity of Los Alamos National Laboratory, New Mexico.
- Sec. 3158. Improvements to Corral Hollow Road, Livermore, California.
- Sec. 3159. Annual assessment and report on vulnerability of Department of Energy facilities to terrorist attack.

Subtitle F—Rocky Flats National Wildlife Refuge

- Sec. 3171. Short title.
- Sec. 3172. Findings and purposes.
- Sec. 3173. Definitions.
- Sec. 3174. Future ownership and management.
- Sec. 3175. Transfer of management responsibilities and jurisdiction over Rocky Flats.
- Sec. 3176. Continuation of environmental cleanup and closure.
- Sec. 3177. Rocky Flats National Wildlife Refuge.
- Sec. 3178. Comprehensive conservation plan.
- Sec. 3179. Property rights.
- Sec. 3180. Rocky Flats Museum.
- Sec. 3181. Report on funding.

TITLE XXXII—DEFENSE NUCLEAR FACILITIES SAFETY BOARD

- Sec. 3201. Authorization.

TITLE XXXIII—NATIONAL DEFENSE STOCKPILE

- Sec. 3301. Authority to dispose of certain materials in the National Defense Stockpile.
- Sec. 3302. Revision of limitations on required disposals of cobalt in the National Defense Stockpile.
- Sec. 3303. Acceleration of required disposal of cobalt in the National Defense Stockpile.
- Sec. 3304. Revision of restriction on disposal of manganese ferro.

TITLE XXXIV—NAVAL PETROLEUM RESERVES

- Sec. 3401. Authorization of appropriations.

1 SEC. 3. CONGRESSIONAL DEFENSE COMMITTEES DEFINED.

- 2 For purposes of this Act, the term “congressional de-
- 3 fense committees” means—

1 (1) the Committee on Armed Services and the
 2 Committee on Appropriations of the Senate; and

3 (2) the Committee on Armed Services and the
 4 Committee on Appropriations of the House of Rep-
 5 resentatives.

6 **TITLE XXXI—DEPARTMENT OF**
 7 **ENERGY NATIONAL SECURITY**
 8 **PROGRAMS**

9 **Subtitle A—National Security**
 10 **Programs Authorizations**

11 **SEC. 3101. NATIONAL NUCLEAR SECURITY ADMINISTRA-**
 12 **TION.**

13 (a) IN GENERAL.—Subject to subsection (b), funds
 14 are hereby authorized to be appropriated to the Depart-
 15 ment of Energy for fiscal year 2002 for the activities of
 16 the National Nuclear Security Administration in carrying
 17 out programs necessary for national security in the
 18 amount of \$7,351,721,000, to be allocated as follows:

19 (1) WEAPONS ACTIVITIES.—For weapons activi-
 20 ties, \$5,481,795,000, to be allocated as follows:

21 (A) For stewardship operation and mainte-
 22 nance, \$4,687,443,000, to be allocated as fol-
 23 lows:

24 (i) For directed stockpile work,
 25 \$1,016,922,000.

1 (ii) For campaigns, \$2,137,300,000,
 2 to be allocated as follows:

3 (I) For operation and mainte-
 4 nance, \$1,767,328,000.

5 (II) For plant projects (including
 6 maintenance, restoration, planning,
 7 construction, acquisition, modification
 8 of facilities, and the continuation of
 9 projects authorized in prior years, and
 10 land acquisition related thereto),
 11 \$369,972,000, to be allocated as fol-
 12 lows:

13 Project 01–D–101, distrib-
 14 uted information systems labora-
 15 tory, Sandia National Labora-
 16 tories, Livermore, California,
 17 \$5,400,000.

18 Project 00–D–103, terascale
 19 simulation facility, Lawrence
 20 Livermore National Laboratory,
 21 Livermore, California,
 22 \$22,000,000.

23 Project 00–D–105, strategic
 24 computing complex, Los Alamos

1 National Laboratory, Los Ala-
 2 mos, New Mexico, \$11,070,000.

3 Project 00–D–107, joint
 4 computational engineering lab-
 5 oratory, Sandia National Labora-
 6 tories, Albuquerque, New Mexico,
 7 \$5,377,000.

8 Project 98–D–125, tritium
 9 extraction facility, Savannah
 10 River Plant, Aiken, South Caro-
 11 lina, \$81,125,000.

12 Project 96–D–111, national
 13 ignition facility (NIF), Lawrence
 14 Livermore National Laboratory,
 15 Livermore, California,
 16 \$245,000,000.

17 (iii) For readiness in technical base
 18 and facilities, \$1,533,221,000, to be allo-
 19 cated as follows:

20 (I) For operation and mainte-
 21 nance, \$1,356,107,000.

22 (II) For plant projects (including
 23 maintenance, restoration, planning,
 24 construction, acquisition, modification
 25 of facilities, and the continuation of

1 projects authorized in prior years, and
 2 land acquisition related thereto),
 3 \$177,114,000, to be allocated as fol-
 4 lows:

5 Project 02–D–101, micro-
 6 systems and engineering sciences
 7 applications (MESA), Sandia Na-
 8 tional Laboratories, Albuquerque,
 9 New Mexico, \$39,000,000.

10 Project 02–D–103, project
 11 engineering and design (PE&D),
 12 various locations, \$31,130,000.

13 Project 02–D–107, electrical
 14 power systems safety communica-
 15 tions and bus upgrades, Nevada
 16 Test Site, Nevada, \$3,507,000.

17 Project 01–D–103, prelimi-
 18 nary project design and engineer-
 19 ing, various locations,
 20 \$16,379,000.

21 Project 01–D–124, highly
 22 enriched uranium (HEU) mate-
 23 rials storage facility, Y–12 Plant,
 24 Oak Ridge, Tennessee, \$0.

1 Project 01–D–126, weapons
2 evaluation test laboratory,
3 Pantex Plant, Amarillo, Texas,
4 \$7,700,000.

5 Project 01–D–800, sensitive
6 compartmented information facil-
7 ity, Lawrence Livermore Na-
8 tional Laboratory, Livermore,
9 California, \$12,993,000.

10 Project 99–D–103, isotope
11 sciences facilities, Lawrence
12 Livermore National Laboratory,
13 Livermore, California,
14 \$4,400,000.

15 Project 99–D–104, protec-
16 tion of real property (roof recon-
17 struction, phase II), Lawrence
18 Livermore National Laboratory,
19 Livermore, California,
20 \$2,800,000.

21 Project 99–D–106, model
22 validation and system certifi-
23 cation center, Sandia National
24 Laboratories, Albuquerque, New
25 Mexico, \$4,955,000.

1 Project 99–D–108, renova-
2 tion of existing roadways, Nevada
3 Test Site, Nevada, \$2,000,000.

4 Project 99–D–125, replace
5 boilers and controls, Kansas City
6 Plant, Kansas City, Missouri,
7 \$300,000.

8 Project 99–D–127, stockpile
9 management restructuring initia-
10 tive, Kansas City Plant, Kansas
11 City, Missouri, \$22,200,000.

12 Project 99–D–128, stockpile
13 management restructuring initia-
14 tive, Pantex Plant, Amarillo,
15 Texas, \$3,300,000.

16 Project 98–D–123, stockpile
17 management restructuring initia-
18 tive, tritium facility moderniza-
19 tion and consolidation, Savannah
20 River Plant, Aiken, South Caro-
21 lina, \$13,700,000.

22 Project 98–D–124, stockpile
23 management restructuring initia-
24 tive, Y–12 Plant consolidation,

1 Oak Ridge, Tennessee,
2 \$6,850,000.

3 Project 97–D–123, struc-
4 tural upgrades, Kansas City
5 Plant, Kansas City, Missouri,
6 \$3,000,000.

7 Project 96–D–102, stockpile
8 stewardship facilities revitaliza-
9 tion, Phase VI, various locations,
10 \$2,900,000.

11 (B) For secure transportation asset,
12 \$77,571,000, to be allocated for operation and
13 maintenance.

14 (C) For safeguards and security,
15 \$448,881,000, to be allocated as follows:

16 (i) For operation and maintenance,
17 \$439,281,000.

18 (ii) For plant projects (including
19 maintenance, restoration, planning, con-
20 struction, acquisition, modification of fa-
21 cilities, and the continuation of projects
22 authorized in prior years, and land acqui-
23 sition related thereto), \$9,600,000, to be al-
24 located as follows:

1 Project 99–D–132, stockpile
 2 management restructuring initiative,
 3 nuclear material safeguards and secu-
 4 rity upgrade project, Los Alamos Na-
 5 tional Laboratory, Los Alamos, New
 6 Mexico, \$9,600,000.

7 (D) For facilities and infrastructure,
 8 \$267,900,000.

9 (2) DEFENSE NUCLEAR NONPROLIFERATION.—
 10 For other nuclear security activities, \$872,500,000,
 11 to be allocated as follows:

12 (A) For nonproliferation and verification
 13 research and development, \$258,161,000, to be
 14 allocated as follows:

15 (i) For operation and maintenance,
 16 \$222,355,000.

17 (ii) For plant projects (including
 18 maintenance, restoration, planning, con-
 19 struction, acquisition, modification of fa-
 20 cilities, and the continuation of projects
 21 authorized in prior years, and land acquisi-
 22 tion related thereto), \$35,806,000, to be
 23 allocated as follows:

24 Project 00–D–192, nonprolifera-
 25 tion and international security center

1 (NISC), Los Alamos National Labora-
2 tory, Los Alamos, New Mexico,
3 \$35,806,000.

4 (B) For arms control, \$138,000,000.

5 (C) For international materials protection,
6 control, and accounting, \$143,800,000.

7 (D) For highly enriched uranium trans-
8 parency implementation, \$13,950,000.

9 (E) For international nuclear safety,
10 \$19,500,000.

11 (F) For fissile materials control and dis-
12 position, \$299,089,000, to be allocated as fol-
13 lows:

14 (i) For United States surplus fissile
15 materials disposition, \$233,089,000, to be
16 allocated as follows:

17 (I) For operation and mainte-
18 nance, \$130,089,000.

19 (II) For plant projects (including
20 maintenance, restoration, planning,
21 construction, acquisition, modification
22 of facilities, and the continuation of
23 projects authorized in prior years, and
24 land acquisition related thereto),

1 \$103,000,000, to be allocated as fol-
 2 lows:

3 Project 01-D-142, immo-
 4 bilization and associated proc-
 5 essing facility, (Title I and II de-
 6 sign), Savannah River Site,
 7 Aiken, South Carolina, \$0.

8 Project 01-D-407, highly
 9 enriched uranium blend-down,
 10 Savannah River Site, Aiken,
 11 South Carolina, \$24,000,000.

12 Project 99-D-141, pit dis-
 13 assembly and conversion facility
 14 (Title I and II design), Savannah
 15 River Site, Aiken, South Caro-
 16 lina, \$16,000,000.

17 Project 99-D-143, mixed
 18 oxide fuel fabrication facility
 19 (Title I and II design), Savannah
 20 River Site, Aiken, South Caro-
 21 lina, \$63,000,000.

22 (ii) For Russian fissile materials dis-
 23 position, \$66,000,000.

24 (3) NAVAL REACTORS.—For naval reactors,
 25 \$688,045,000, to be allocated as follows:

1 (A) For naval reactors development,
 2 \$665,445,000, to be allocated as follows:

3 (i) For operation and maintenance,
 4 \$652,245,000.

5 (ii) For plant projects (including
 6 maintenance, restoration, planning, con-
 7 struction, acquisition, modification of fa-
 8 cilities, and the continuation of projects
 9 authorized in prior years, and land acqui-
 10 sition related thereto), \$13,200,000, to be
 11 allocated as follows:

12 Project 01-D-200, major office
 13 replacement building, Schenectady,
 14 New York, \$9,000,000.

15 Project 90-N-102, expended core
 16 facility dry cell project, Naval Reac-
 17 tors Facility, Idaho, \$4,200,000.

18 (B) For program direction, \$22,600,000.

19 (4) OFFICE OF ADMINISTRATOR FOR NUCLEAR
 20 SECURITY.—For the Office of the Administrator for
 21 Nuclear Security, and for program direction for the
 22 National Nuclear Security Administration (other
 23 than for naval reactors), \$380,366,000.

1 (b) ADJUSTMENTS.—The amount authorized to be
 2 appropriated by subsection (a) is hereby reduced by
 3 \$70,985,000, as follows:

4 (1) The amount authorized to be appropriated
 5 by paragraph (1) of that subsection is hereby re-
 6 duced by \$28,985,000, which is to be derived from
 7 offsets and use of prior year balances.

8 (2) The amount authorized to be appropriated
 9 by paragraph (2) of that subsection is hereby re-
 10 duced by \$42,000,000, which is to be derived from
 11 use of prior year balances.

12 **SEC. 3102. DEFENSE ENVIRONMENTAL RESTORATION AND**
 13 **WASTE MANAGEMENT.**

14 (a) IN GENERAL.—Subject to subsection (b), funds
 15 are hereby authorized to be appropriated to the Depart-
 16 ment of Energy for fiscal year 2002 for environmental res-
 17 toration and waste management activities in carrying out
 18 programs necessary for national security in the amount
 19 of \$6,047,617,000, to be allocated as follows:

20 (1) CLOSURE PROJECTS.—For closure projects
 21 carried out in accordance with section 3143 of the
 22 National Defense Authorization Act for Fiscal Year
 23 1997 (Public Law 104–201; 110 Stat. 2836; 42
 24 U.S.C. 7277n), \$1,080,538,000.

(2) SITE/PROJECT COMPLETION.—For site completion and project completion in carrying out environmental management activities necessary for national security programs, \$943,196,000, to be allocated as follows:

(A) For operation and maintenance, \$919,030,000.

(B) For plant projects (including maintenance, restoration, planning, construction, acquisition, modification of facilities, and the continuation of projects authorized in prior years, and land acquisition related thereto), \$24,166,000, to be allocated as follows:

Project 02–D–402, Intec cathodic protection system expansion, Idaho National Engineering and Environmental Laboratory, Idaho Falls, Idaho, \$3,256,000.

Project 01–D–414, preliminary project engineering and design (PE&D), various locations, \$6,254,000.

Project 99–D–402, tank farm support services, F&H areas, Savannah River Site, Aiken, South Carolina, \$5,040,000.

1 Project 99–D–404, health physics in-
 2 strumentation laboratory, Idaho National
 3 Engineering and Environmental Labora-
 4 tories, Idaho Falls, Idaho, \$2,700,000.

5 Project 98–D–453, plutonium sta-
 6 bilization and handling system for pluto-
 7 nium finishing plant, Richland, Wash-
 8 ington, \$1,910,000.

9 Project 96–D–471, chlorofluorocarbon
 10 heating, ventilation, and air conditioning
 11 and chiller retrofit, Savannah River Site,
 12 Aiken, South Carolina, \$4,244,000.

13 Project 92–D–140, F&H canyon ex-
 14 haust upgrades, Savannah River Site,
 15 Aiken, South Carolina, \$0.

16 Project 86–D–103, decontamination
 17 and waste treatment facility, Lawrence
 18 Livermore National Laboratory, Liver-
 19 more, California, \$762,000.

20 (3) POST-2006 COMPLETION.—For post-2006
 21 completion in carrying out environmental restoration
 22 and waste management activities necessary for na-
 23 tional security programs, \$3,245,201,000, to be allo-
 24 cated as follows:

1 (A) For operation and maintenance,
2 \$1,955,979,000.

3 (B) For plant projects (including mainte-
4 nance, restoration, planning, construction, ac-
5 quisition, modification of facilities, and the con-
6 tinuation of projects authorized in prior years,
7 and land acquisition related thereto),
8 \$6,754,000, to be allocated as follows:

9 Project 93-D-187, high-level waste
10 removal from filled waste tanks, Savannah
11 River Site, Aiken, South Carolina,
12 \$6,754,000.

13 (C) For the Office of River Protection in
14 carrying out environmental restoration and
15 waste management activities necessary for na-
16 tional security programs, \$862,468,000, to be
17 allocated as follows:

18 (i) For operation and maintenance,
19 \$322,151,000.

20 (ii) For plant projects (including
21 maintenance, restoration, planning, con-
22 struction, acquisition, modification of fa-
23 cilities, and the continuation of projects
24 authorized in prior years, and land acquisi-

tion related thereto), \$540,317,000, to be
allocated as follows:

Project 01–D–416, waste treatment and immobilization plant, Richland, Washington, \$500,000,000.

Project 97–D–402, tank farm restoration and safe operations, Richland, Washington, \$33,473,000.

Project 94–D–407, initial tank retrieval systems, Richland, Washington, \$6,844,000.

(4) SCIENCE AND TECHNOLOGY DEVELOPMENT.—For science and technology development in carrying out environmental restoration and waste management activities necessary for national security programs, \$216,000,000.

(5) EXCESS FACILITIES.—For excess facilities in carrying out environmental restoration and waste management activities necessary for national security programs, \$1,300,000.

(6) SAFEGUARDS AND SECURITY.—For safeguards and security in carrying out environmental restoration and waste management activities necessary for national security programs, \$205,621,000.

1 (7) PROGRAM DIRECTION.—For program direc-
 2 tion in carrying out environmental restoration and
 3 waste management activities necessary for national
 4 security programs, \$355,761,000.

5 (b) ADJUSTMENT.—The total amount authorized to
 6 be appropriated by subsection (a) is the sum of the
 7 amounts authorized to be appropriated by paragraphs (2)
 8 through (7) of that subsection, reduced by \$42,161,000,
 9 to be derived from offsets and use of prior year balances.

10 **SEC. 3103. OTHER DEFENSE ACTIVITIES.**

11 (a) IN GENERAL.—Subject to subsection (b), funds
 12 are hereby authorized to be appropriated to the Depart-
 13 ment of Energy for fiscal year 2002 for other defense ac-
 14 tivities in carrying out programs necessary for national se-
 15 curity in the amount of \$512,195,000, to be allocated as
 16 follows:

17 (1) INTELLIGENCE.—For intelligence,
 18 \$40,844,000.

19 (2) COUNTERINTELLIGENCE.—For counter-
 20 intelligence, \$46,389,000.

21 (3) SECURITY AND EMERGENCY OPERATIONS.—
 22 For security and emergency operations,
 23 \$247,565,000, to be allocated as follows:

24 (A) For nuclear safeguards and security,
 25 \$121,188,000.

1 (B) For security investigations,
2 \$44,927,000.

3 (C) For program direction, \$81,450,000.

4 (4) INDEPENDENT OVERSIGHT AND PERFORM-
5 ANCE ASSURANCE.—For independent oversight and
6 performance assurance, \$14,904,000.

7 (5) ENVIRONMENT, SAFETY, AND HEALTH.—
8 For the Office of Environment, Safety, and Health,
9 \$114,600,000, to be allocated as follows:

10 (A) For environment, safety, and health
11 (defense), \$91,307,000.

12 (B) For program direction, \$23,293,000.

13 (6) WORKER AND COMMUNITY TRANSITION AS-
14 SISTANCE.—For worker and community transition
15 assistance, \$20,000,000, to be allocated as follows:

16 (A) For worker and community transition,
17 \$18,000,000.

18 (B) For program direction, \$2,000,000.

19 (7) OFFICE OF HEARINGS AND APPEALS.—For
20 the Office of Hearings and Appeals, \$2,893,000.

21 (8) NATIONAL SECURITY PROGRAMS ADMINIS-
22 TRATIVE SUPPORT.—For national security programs
23 administrative support, \$25,000,000.

24 (b) ADJUSTMENTS.—

1 (1) SECURITY AND EMERGENCY OPERATIONS,
 2 FOR PROGRAM DIRECTION.—The amount authorized
 3 to be appropriated pursuant to subsection (a)(3)(B)
 4 is reduced by \$712,000 to reflect an offset provided
 5 by user organizations for security investigations.

6 (2) OTHER.—The total amount authorized to
 7 be appropriated pursuant to paragraphs (1), (2),
 8 (4), (5), (6), (7), and (8) of subsection (a) is hereby
 9 reduced by \$10,000,000 to reflect use of prior year
 10 balances.

11 **SEC. 3104. DEFENSE ENVIRONMENTAL MANAGEMENT PRI-**
 12 **VATIZATION.**

13 Funds are hereby authorized to be appropriated to
 14 the Department of Energy for fiscal year 2002 for privat-
 15 ization initiatives in carrying out environmental restora-
 16 tion and waste management activities necessary for na-
 17 tional security programs in the amount of \$157,537,000,
 18 to be allocated as follows:

19 Project 02–PVT–1, Paducah disposal facility,
 20 Paducah, Kentucky, \$13,329,000.

21 Project 02–PVT–2, Portsmouth disposal facil-
 22 ity, Portsmouth, Ohio, \$2,000,000.

23 Project 98–PVT–2, spent nuclear fuel dry stor-
 24 age, Idaho Falls, Idaho, \$49,332,000.

1 Project 98–PVT–5, environmental manage-
 2 ment/waste management disposal, Oak Ridge, Ten-
 3 nessee, \$26,065,000.

4 Project 97–PVT–2, advanced mixed waste
 5 treatment project, Idaho Falls, Idaho, \$56,000,000.

6 Project 97–PVT–3, transuranic waste treat-
 7 ment, Oak Ridge, Tennessee, \$10,826,000.

8 **SEC. 3105. DEFENSE NUCLEAR WASTE DISPOSAL.**

9 Funds are hereby authorized to be appropriated to
 10 the Department of Energy for fiscal year 2002 for pay-
 11 ment to the Nuclear Waste Fund established in section
 12 302(C) of the Nuclear Waste Policy Act of 1982 (42
 13 U.S.C. 10222(c)) in the amount of \$250,000,000.

14 **Subtitle B—Recurring General**
 15 **Provisions**

16 **SEC. 3121. REPROGRAMMING.**

17 (a) IN GENERAL.—Until the Secretary of Energy
 18 submits to the congressional defense committees the re-
 19 port referred to in subsection (b) and a period of 30 days
 20 has elapsed after the date on which such committees re-
 21 ceive the report, the Secretary may not use amounts ap-
 22 propriated pursuant to this title for any program—

23 (1) in amounts that exceed, in a fiscal year—
 24 (A) 110 percent of the amount authorized
 25 for that program by this title; or

1 (B) \$2,000,000 more than the amount au-
2 thorized for that program by this title; or

3 (2) which has not been presented to, or re-
4 quested of, Congress.

5 (b) REPORT.—(1) The report referred to in sub-
6 section (a) is a report containing a full and complete state-
7 ment of the action proposed to be taken and the facts and
8 circumstances relied upon in support of the proposed ac-
9 tion.

10 (2) In the computation of the 30-day period under
11 subsection (a), there shall be excluded any day on which
12 either House of Congress is not in session because of an
13 adjournment of more than 3 days to a day certain.

14 (c) LIMITATIONS.—(1) In no event may the total
15 amount of funds obligated pursuant to this title exceed
16 the total amount authorized to be appropriated by this
17 title.

18 (2) Funds appropriated pursuant to this title may not
19 be used for an item for which Congress has specifically
20 denied funds.

21 **SEC. 3122. LIMITS ON MINOR CONSTRUCTION PROJECTS.**

22 (a) IN GENERAL.—The Secretary of Energy may
23 carry out any minor construction project using operation
24 and maintenance funds, or facilities and infrastructure
25 funds, authorized by this title.

1 (b) ANNUAL REPORT.—The Secretary shall submit
2 to the congressional defense committees on an annual
3 basis a report on each exercise of the authority in sub-
4 section (a) during the preceding year. Each report shall
5 give a brief description of each minor construction project
6 covered by such report.

7 (c) MINOR CONSTRUCTION PROJECT DEFINED.—In
8 this section, the term “minor construction project” means
9 any plant project not specifically authorized by law if the
10 approved total estimated cost of the plant project does not
11 exceed \$5,000,000.

12 **SEC. 3123. LIMITS ON CONSTRUCTION PROJECTS.**

13 (a) IN GENERAL.—(1) Except as provided in para-
14 graph (2), construction on a construction project may not
15 be started or additional obligations incurred in connection
16 with the project above the total estimated cost, whenever
17 the current estimated cost of the construction project, au-
18 thorized by 3101, 3102, or 3103, or which is in support
19 of national security programs of the Department of En-
20 ergy and was authorized by any previous Act, exceeds by
21 more than 25 percent the higher of—

22 (A) the amount authorized for the project; or

23 (B) the amount of the total estimated cost for
24 the project as shown in the most recent budget jus-
25 tification data submitted to Congress.

1 (2) An action described in paragraph (1) may be
2 taken if—

3 (A) the Secretary of Energy has submitted to
4 the congressional defense committees a report on the
5 actions and the circumstances making such action
6 necessary; and

7 (B) a period of 30 days has elapsed after the
8 date on which the report is received by the commit-
9 tees.

10 (3) In the computation of the 30-day period under
11 paragraph (2), there is excluded any day on which either
12 House of Congress is not in session because of an adjourn-
13 ment of more than 3 days to a day certain.

14 (b) EXCEPTION.—Subsection (a) does not apply to a
15 construction project with a current estimated cost of less
16 than \$5,000,000.

17 **SEC. 3124. FUND TRANSFER AUTHORITY.**

18 (a) TRANSFER TO OTHER FEDERAL AGENCIES.—
19 The Secretary of Energy may transfer funds authorized
20 to be appropriated to the Department of Energy pursuant
21 to this title to other Federal agencies for the performance
22 of work for which the funds were authorized. Funds so
23 transferred may be merged with and be available for the
24 same purposes and for the same time period as the author-

1 izations of the Federal agency to which the amounts are
2 transferred.

3 (b) TRANSFER WITHIN DEPARTMENT OF ENERGY.—

4 (1) Subject to paragraph (2), the Secretary of Energy may
5 transfer funds authorized to be appropriated to the De-
6 partment of Energy pursuant to this title between any
7 such authorizations. Amounts of authorizations so trans-
8 ferred may be merged with and be available for the same
9 purposes and for the same period as the authorization to
10 which the amounts are transferred.

11 (2) Not more than 5 percent of any such authoriza-
12 tion may be transferred between authorizations under
13 paragraph (1). No such authorization may be increased
14 or decreased by more than 5 percent by a transfer under
15 such paragraph.

16 (c) LIMITATIONS.—The authority provided by this
17 subsection to transfer authorizations—

18 (1) may be used only to provide funds for items
19 relating to activities necessary for national security
20 programs that have a higher priority than the items
21 from which the funds are transferred; and

22 (2) may not be used to provide funds for an
23 item for which Congress has specifically denied
24 funds.

1 (d) NOTICE TO CONGRESS.—The Secretary of En-
 2 ergy shall promptly notify the Committees on Armed Serv-
 3 ices of the Senate and House of Representatives of any
 4 transfer of funds to or from authorizations under this
 5 title.

6 **SEC. 3125. AUTHORITY FOR CONCEPTUAL AND CONSTRUC-**
 7 **TION DESIGN.**

8 (a) REQUIREMENT OF CONCEPTUAL DESIGN.—(1)
 9 Subject to paragraph (2) and except as provided in para-
 10 graph (3), before submitting to Congress a request for
 11 funds for a construction project that is in support of a
 12 national security program of the Department of Energy,
 13 the Secretary of Energy shall complete a conceptual de-
 14 sign for that project.

15 (2) If the estimated cost of completing a conceptual
 16 design for a construction project exceeds \$3,000,000, the
 17 Secretary shall submit to Congress a request for funds for
 18 the conceptual design before submitting a request for
 19 funds for the construction project.

20 (3) The requirement in paragraph (1) does not apply
 21 to a request for funds—

22 (A) for a minor construction project the total
 23 estimated cost of which is less than \$5,000,000; or

24 (B) for emergency planning, design, and con-
 25 struction activities under section 3126.

1 (b) **AUTHORITY FOR CONSTRUCTION DESIGN.**—(1)

2 Within the amounts authorized by this title, the Secretary
3 of Energy may carry out construction design (including
4 architectural and engineering services) in connection with
5 any proposed construction project if the total estimated
6 cost for such design does not exceed \$600,000.

7 (2) If the total estimated cost for construction design
8 in connection with any construction project exceeds
9 \$600,000, funds for that design must be specifically au-
10 thorized by law.

11 **SEC. 3126. AUTHORITY FOR EMERGENCY PLANNING, DE-**
12 **SIGN, AND CONSTRUCTION ACTIVITIES.**

13 (a) **AUTHORITY.**—The Secretary of Energy may use
14 any funds available to the Department of Energy pursuant
15 to an authorization in this title, including funds authorized
16 to be appropriated for advance planning, engineering, and
17 construction design, and for plant projects, under sections
18 3101, 3102, 3103, and 3104 to perform planning, design,
19 and construction activities for any Department of Energy
20 national security program construction project that, as de-
21 termined by the Secretary, must proceed expeditiously in
22 order to protect public health and safety, to meet the
23 needs of national defense, or to protect property.

24 (b) **LIMITATION.**—The Secretary may not exercise
25 the authority under subsection (a) in the case of any con-

1 struction project until the Secretary has submitted to the
 2 congressional defense committees a report on the activities
 3 that the Secretary intends to carry out under this section
 4 and the circumstances making those activities necessary.

5 (c) SPECIFIC AUTHORITY.—The requirement of sec-
 6 tion 3125(b)(2) does not apply to emergency planning, de-
 7 sign, and construction activities conducted under this sec-
 8 tion.

9 **SEC. 3127. FUNDS AVAILABLE FOR ALL NATIONAL SECU-**
 10 **RITY PROGRAMS OF THE DEPARTMENT OF**
 11 **ENERGY.**

12 Subject to the provisions of appropriation Acts and
 13 section 3121, amounts appropriated pursuant to this title
 14 for management and support activities and for general
 15 plant projects are available for use, when necessary, in
 16 connection with all national security programs of the De-
 17 partment of Energy.

18 **SEC. 3128. AVAILABILITY OF FUNDS.**

19 (a) IN GENERAL.—Except as provided in subsection
 20 (b), when so specified in an appropriations Act, amounts
 21 appropriated for operation and maintenance or for plant
 22 projects may remain available until expended.

23 (b) EXCEPTION FOR PROGRAM DIRECTION FUNDS.—
 24 Amounts appropriated for program direction pursuant to
 25 an authorization of appropriations in subtitle A shall re-

1 main available to be expended only until the end of fiscal
2 year 2004.

3 **SEC. 3129. TRANSFER OF DEFENSE ENVIRONMENTAL MAN-**
4 **AGEMENT FUNDS.**

5 (a) TRANSFER AUTHORITY FOR DEFENSE ENVIRON-
6 MENTAL MANAGEMENT FUNDS.—The Secretary of En-
7 ergy shall provide the manager of each field office of the
8 Department of Energy with the authority to transfer de-
9 fense environmental management funds from a program
10 or project under the jurisdiction of the office to another
11 such program or project.

12 (b) LIMITATIONS.—(1) Not more than three trans-
13 fers may be made to or from any program or project under
14 subsection (a) in a fiscal year.

15 (2) The amount transferred to or from a program
16 or project under in any one transfer under subsection (a)
17 may not exceed \$5,000,000.

18 (3) A transfer may not be carried out by a manager
19 of a field office under subsection (a) unless the manager
20 determines that the transfer is necessary to address a risk
21 to health, safety, or the environment or to assure the most
22 efficient use of defense environmental management funds
23 at the field office.

24 (4) Funds transferred pursuant to subsection (a)
25 may not be used for an item for which Congress has spe-

1 cifically denied funds or for a new program or project that
 2 has not been authorized by Congress.

3 (c) EXEMPTION FROM REPROGRAMMING REQUIRE-
 4 MENTS.—The requirements of section 3121 shall not
 5 apply to transfers of funds pursuant to subsection (a).

6 (d) NOTIFICATION.—The Secretary, acting through
 7 the Assistant Secretary of Energy for Environmental
 8 Management, shall notify Congress of any transfer of
 9 funds pursuant to subsection (a) not later than 30 days
 10 after such transfer occurs.

11 (e) DEFINITIONS.—In this section:

12 (1) The term “program or project” means, with
 13 respect to a field office of the Department of En-
 14 ergy, any of the following:

15 (A) A program referred to or a project list-
 16 ed in paragraph (2) or (3) of section 3102(a).

17 (B) A program or project not described in
 18 subparagraph (A) that is for environmental res-
 19 toration or waste management activities nec-
 20 essary for national security programs of the De-
 21 partment, that is being carried out by the of-
 22 fice, and for which defense environmental man-
 23 agement funds have been authorized and appro-
 24 priated before the date of the enactment of this
 25 Act.

1 (2) The term “defense environmental manage-
2 ment funds” means funds appropriated to the De-
3 partment of Energy pursuant to an authorization for
4 carrying out environmental restoration and waste
5 management activities necessary for national secu-
6 rity programs.

7 (f) DURATION OF AUTHORITY.—The managers of the
8 field offices of the Department may exercise the authority
9 provided under subsection (a) during the period beginning
10 on October 1, 2001, and ending on September 30, 2002.

11 **SEC. 3130. TRANSFER OF WEAPONS ACTIVITIES FUNDS.**

12 (a) TRANSFER AUTHORITY FOR WEAPONS ACTIVI-
13 TIES FUNDS.—The Secretary of Energy shall provide the
14 manager of each field office of the Department of Energy
15 with the authority to transfer weapons activities funds
16 from a program or project under the jurisdiction of the
17 office to another such program or project.

18 (b) LIMITATIONS.—(1) Not more than three trans-
19 fers may be made to or from any program or project under
20 subsection (a) in a fiscal year.

21 (2) The amount transferred to or from a program
22 or project in any one transfer under subsection (a) may
23 not exceed \$5,000,000.

24 (3) A transfer may not be carried out by a manager
25 of a field office under subsection (a) unless the manager

1 determines that the transfer is necessary to address a risk
 2 to health, safety, or the environment or to assure the most
 3 efficient use of weapons activities funds at the field office.

4 (4) Funds transferred pursuant to subsection (a)
 5 may not be used for an item for which Congress has spe-
 6 cifically denied funds or for a new program or project that
 7 has not been authorized by Congress.

8 (c) EXEMPTION FROM REPROGRAMMING REQUIRE-
 9 MENTS.—The requirements of section 3121 shall not
 10 apply to transfers of funds pursuant to subsection (a).

11 (d) NOTIFICATION.—The Secretary, acting through
 12 the Administrator for Nuclear Security, shall notify Con-
 13 gress of any transfer of funds pursuant to subsection (a)
 14 not later than 30 days after such transfer occurs.

15 (e) DEFINITIONS.—In this section:

16 (1) The term “program or project” means, with
 17 respect to a field office of the Department of En-
 18 ergy, any of the following:

19 (A) A program referred to or a project list-
 20 ed in 3101(1).

21 (B) A program or project not described in
 22 subparagraph (A) that is for weapons activities
 23 necessary for national security programs of the
 24 Department, that is being carried out by the of-
 25 fice, and for which weapons activities funds

1 have been authorized and appropriated before
 2 the date of the enactment of this Act.

3 (2) The term “weapons activities funds” means
 4 funds appropriated to the Department of Energy
 5 pursuant to an authorization for carrying out weap-
 6 ons activities necessary for national security pro-
 7 grams.

8 (f) DURATION OF AUTHORITY.—The managers of the
 9 field offices of the Department may exercise the authority
 10 provided under subsection (a) during the period beginning
 11 on October 1, 2001, and ending on September 30, 2002.

12 **Subtitle C—Program Authoriza-**
 13 **tions, Restrictions, and Limita-**
 14 **tions**

15 **SEC. 3131. LIMITATION ON AVAILABILITY OF FUNDS FOR**
 16 **WEAPONS ACTIVITIES FOR FACILITIES AND**
 17 **INFRASTRUCTURE.**

18 Not more than 50 percent of the funds authorized
 19 to be appropriated by section 3101(a)(1)(D) for the Na-
 20 tional Nuclear Security Administration for weapons activi-
 21 ties for facilities and infrastructure may be obligated or
 22 expended until the Administrator for Nuclear Security
 23 submits to the congressional defense committees a report
 24 setting forth the following:

1 (1) Criteria for the selection of projects to be
2 carried out using such funds.

3 (2) Criteria for establishing priorities among
4 projects so selected.

5 (3) A list of the projects so selected, including
6 the priority assigned to each such project.

7 **SEC. 3132. LIMITATION ON AVAILABILITY OF FUNDS FOR**
8 **OTHER DEFENSE ACTIVITIES FOR NATIONAL**
9 **SECURITY PROGRAMS ADMINISTRATIVE SUP-**
10 **PORT.**

11 Not more than \$5,000,000 of the funds authorized
12 to be appropriated by section 3103(a)(8) for other defense
13 activities for national security programs administrative
14 support may be obligated or expended until the later of
15 the following:

16 (1) The date on which the Secretary of Energy
17 submits to Congress a report setting forth the pur-
18 poses for which such funds will be obligated and ex-
19 pended.

20 (2) The date on which the Administrator for
21 Nuclear Security submits to Congress the future-
22 years nuclear security program for fiscal year 2002
23 required by section 3253 of the National Nuclear
24 Security Administration Act (title XXXII of Public
25 Law 106–35; 50 U.S.C. 2453).

1 **SEC. 3133. NUCLEAR CITIES INITIATIVE.**

2 (a) LIMITATIONS ON USE OF FUNDS.—No funds au-
3 thorized to be appropriated for the Nuclear Cities Initia-
4 tive after fiscal year 2001 may be obligated or expended
5 with respect to more than three nuclear cities, or more
6 than two serial production facilities in Russia, until 30
7 days after the Administrator for Nuclear Security submits
8 to the appropriate congressional committees an agreement
9 signed by the Russian Federation on access under the Nu-
10 clear Cities Initiative to the ten closed nuclear cities and
11 four serial production facilities of the Nuclear Cities Ini-
12 tiative.

13 (b) ANNUAL REPORT.—(1) Not later than the first
14 Monday in February each year, the Administrator shall
15 submit to the appropriate congressional committees a re-
16 port on financial and programmatic activities with respect
17 to the Nuclear Cities Initiative during the preceding fiscal
18 year.

19 (2) Each report shall include, for the fiscal year cov-
20 ered by such report, the following:

21 (A) A list of each project that is or was com-
22 pleted, ongoing, or planned under the Nuclear Cities
23 Initiative during such fiscal year.

24 (B) For each project listed under subparagraph
25 (A), information, current as of the end of such fiscal
26 year, on the following:

- 1 (i) The purpose of such project.
- 2 (ii) The budget for such project.
- 3 (iii) The life-cycle costs of such project.
- 4 (iv) Participants in such project.
- 5 (v) The commercial viability of such
- 6 project.

- 7 (vi) The number of jobs in Russia created
- 8 or to be created by or through such project.

- 9 (vii) Of the total amount of funds spent on
- 10 such project, the percentage of such amount
- 11 spent in the United States and the percentage
- 12 of such amount spent overseas.

13 (C) A certification by the Administrator that

14 each project listed under subparagraph (A) did con-

15 tribute, is contributing, or will contribute, as the

16 case may be, to the downsizing of the nuclear weap-

17 ons complex in Russia, together with a description

18 of the evidence utilized to make such certification.

19 (c) DEFINITIONS.—In this section:

20 (1) APPROPRIATE CONGRESSIONAL COMMIT-

21 TEES.—The term “appropriate congressional com-

22 mittees means” the Committee on Armed Services of

23 the Senate and the Committee on Armed Services of

24 the House of Representatives.

1 (2) NUCLEAR CITIES INITIATIVE.—The term
 2 “Nuclear Cities Initiative” means the initiative arising pursuant to the March 1998 discussion between
 3 the Vice President of the United States and the
 4 Prime Minister of the Russian Federation and between the Secretary of Energy of the United States
 5 and the Minister of Atomic Energy of the Russian
 6 Federation.

9 (3) NUCLEAR CITY.—The term “nuclear city”
 10 means any of the nuclear cities within the complex
 11 of the Russia Ministry of Atomic Energy
 12 (MINATOM) as follows:

13 (A) Sarov (Arzamas–16 and Avangard).

14 (B) Zarechnyy (Penza–19).

15 (C) Novoural’sk (Sverdlovsk–44).

16 (D) Lesnoy (Sverdlovsk–45).

17 (E) Ozersk (Chelyabinsk–65).

18 (F) Snezhinsk (Chelyabinsk–70).

19 (G) Trehgornyy (Zlatoust–36).

20 (H) Seversk (Tomsk–7).

21 (I) Zhelenznogorsk (Krasnoyarsk–26).

22 (J) Zelenogorsk (Krasnoyarsk–45).

1 **SEC. 3134. CONSTRUCTION OF DEPARTMENT OF ENERGY**
2 **OPERATIONS OFFICE COMPLEX.**

3 (a) **AUTHORITY FOR DESIGN AND CONSTRUCTION.**—
4 Subject to subsection (b), the Secretary of Energy may
5 provide for the design and construction of a new oper-
6 ations office complex for the Department of Energy in ac-
7 cordance with the feasibility study regarding such oper-
8 ations office complex conducted under the National De-
9 fense Authorization Act for Fiscal Year 2000.

10 (b) **LIMITATION.**—The Secretary may not exercise
11 the authority in subsection (a) until the date on which the
12 Secretary certifies to Congress that the feasibility study
13 referred to in subsection (a) is consistent with the plan
14 submitted under section 3153(a) of the Floyd D. Spence
15 National Defense Authorization Act for Fiscal Year 2001
16 (as enacted by Public Law 106–398; 114 Stat. 1654A–
17 465).

18 (c) **BASIS OF AUTHORITY.**—The design and construc-
19 tion of the operations office complex authorized by sub-
20 section (a) shall be carried out through one or more energy
21 savings performance contracts (ESPC) entered into under
22 this section and in accordance with the provisions of title
23 VIII of the National Energy Policy Conservation Act (42
24 U.S.C. 8287 et seq.).

25 (d) **PAYMENT OF COSTS.**—Amounts for payments of
26 costs associated with the construction of the operations

1 office complex authorized by subsection (a) shall be de-
 2 rived from energy savings and ancillary operation and
 3 maintenance savings that result from the replacement of
 4 a current Department of Energy operations office complex
 5 (as identified in the feasibility study referred to in sub-
 6 section (a)) with the operations office complex authorized
 7 by subsection (a).

8 **Subtitle D—Matters Relating to**
 9 **Management of National Nu-**
 10 **clear Security Administration**

11 **SEC. 3141. ESTABLISHMENT OF POSITION OF DEPUTY AD-**
 12 **MINISTRATOR FOR NUCLEAR SECURITY.**

13 (a) ESTABLISHMENT OF POSITION.—Subtitle A of
 14 the National Nuclear Security Administration Act (title
 15 XXXII of Public Law 106–65; 50 U.S.C. 2401 et seq.)
 16 is amended—

17 (1) by redesignating section 3213 as section
 18 3219 and transferring such section, as so redesign-
 19 nated, to the end of the subtitle; and

20 (2) by inserting after section 3212 the following
 21 new section 3213:

22 **“SEC. 3213. DEPUTY ADMINISTRATOR FOR NUCLEAR SECU-**
 23 **RITY.**

24 “(a) IN GENERAL.—There is in the Administration
 25 a Deputy Administrator for Nuclear Security, who is ap-

1 pointed by the President, by and with the advice and con-
 2 sent of the Senate.

3 “(b) DUTIES.—(1) The Deputy Administrator shall
 4 be the principal assistant to the Administrator in carrying
 5 out the responsibilities of the Director under this title, and
 6 shall act for, and exercise the powers and duties of, the
 7 Administrator when the Administrator is disabled or there
 8 is no Administrator for Nuclear Security.

9 “(2) Subject to the authority, direction, and control
 10 of the Administrator, the Deputy Administrator shall per-
 11 form such duties, and exercise such powers, relating to
 12 the functions of the Administration as the Administrator
 13 may prescribe.”.

14 (b) PAY LEVEL.—Section 5314 of title 5, United
 15 States Code, is amended in the item relating to the Deputy
 16 Administrators of the National Nuclear Security
 17 Administration—

18 (1) by striking “(3)” and inserting “(4)”; and

19 (2) by striking “(2)” and inserting “(3)”.

1 **SEC. 3142. RESPONSIBILITY FOR NATIONAL SECURITY LAB-**
 2 **ORATORIES AND WEAPONS PRODUCTION FA-**
 3 **CILITIES OF DEPUTY ADMINISTRATOR OF NA-**
 4 **TIONAL NUCLEAR SECURITY ADMINISTRA-**
 5 **TION FOR DEFENSE PROGRAMS.**

6 Section 3214 of the National Nuclear Security Ad-
 7 ministration Act (title XXXII of Public Law 106–65; 113
 8 Stat. 959; 50 U.S.C. 2404) is amended by striking sub-
 9 section (c).

10 **SEC. 3143. CLARIFICATION OF STATUS WITHIN THE DE-**
 11 **PARTMENT OF ENERGY OF ADMINISTRATION**
 12 **AND CONTRACTOR PERSONNEL OF THE NA-**
 13 **TIONAL NUCLEAR SECURITY ADMINISTRA-**
 14 **TION.**

15 Section 3219 of the National Nuclear Security Ad-
 16 ministration Act, as redesignated and transferred by sec-
 17 tion 3141(a)(1) of this Act, is further amended—

18 (1) in subsection (a), by striking “Administra-
 19 tion—” and inserting “Administration, in carrying
 20 out any function of the Administration—”; and

21 (2) in subsection (b), by striking “shall” and
 22 inserting “, in carrying out any function of the Ad-
 23 ministration, shall”.

1 **SEC. 3144. MODIFICATION OF AUTHORITY OF ADMINIS-**
 2 **TRATOR FOR NUCLEAR SECURITY TO ESTAB-**
 3 **LISH SCIENTIFIC, ENGINEERING, AND TECH-**
 4 **NICAL POSITIONS.**

5 (a) INCREASE IN AUTHORIZED NUMBER OF POSI-
 6 TIONS.—Section 3241 of the National Nuclear Security
 7 Administration Act (title XXXII of Public Law 106–65;
 8 113 Stat. 964; 50 U.S.C. 2441) is amended—

9 (1) by inserting “(a) IN GENERAL—” before
 10 “The Administrator”; and

11 (2) in subsection (a), as so designated, by strik-
 12 ing “300” and inserting “500”.

13 (b) DESIGNATION OF EXISTING PROVISIONS ON
 14 TREATMENT OF AUTHORITY.—That section is further
 15 amended—

16 (1) by designating the second sentence as sub-
 17 section (b);

18 (2) aligning the margin of that subsection, as
 19 so designated, so as to indent the text two ems; and

20 (3) in that subsection, as so designated, by
 21 striking “Subject to the limitations in the preceding
 22 sentence,” and inserting “(b) TREATMENT OF AU-
 23 THORITY.—Subject to the limitations in subsection
 24 (a),”.

1 (c) TREATMENT OF POSITIONS.—That section is fur-
 2 ther amended by adding at the end the following new sub-
 3 section:

4 “(c) TREATMENT OF POSITIONS.—A position estab-
 5 lished under subsection (a) may not be considered a Senior
 6 Executive Service position (as that term is defined in sec-
 7 tion 3132(a)(2) of title 5, United States Code), and shall
 8 not be subject to the provisions of subchapter II of chapter
 9 31 of that title, relating to the Senior Executive Service.”.

10 **Subtitle E—Other Matters**

11 **SEC. 3151. IMPROVEMENTS TO ENERGY EMPLOYEES OCCU-** 12 **PATIONAL ILLNESS COMPENSATION PRO-** 13 **GRAM.**

14 (a) CERTAIN LEUKEMIA AS SPECIFIED CANCER.—
 15 Section 3621(17) of the Energy Employees Occupational
 16 Illness Compensation Program Act of 2000 (title XXXVI
 17 of the Floyd D. Spence National Defense Authorization
 18 Act for Fiscal Year 2001 (as enacted by Public Law 106–
 19 398); 114 Stat. 1654A–502), as amended by section 2403
 20 of the Supplemental Appropriations Act, 2001 (Public
 21 Law 107–20), is further amended by adding at the end
 22 the following new subparagraph:

23 “(D) Leukemia (other than chronic
 24 lymphocytic leukemia), if initial occupation ex-
 25 posure occurred before 21 years of age and

1 onset occurred more than two years after initial
2 occupational exposure.”.

3 (b) ADDITIONAL MEMBERS OF SPECIAL EXPOSURE
4 COHORT.—Section 3626(b) of that Act (114 Stat. 1654A–
5 505) is amended in the matter preceding paragraph (1)
6 by inserting after “Department of Energy facility” the fol-
7 lowing: “, or at an atomic weapons employer facility,”.

8 (c) ESTABLISHMENT OF CHRONIC SILICOSIS.—Sec-
9 tion 3627(e)(2)(A) of that Act (114 Stat. 1654A–506) is
10 amended by striking “category 1/1” and inserting “cat-
11 egory 1/0”.

12 (d) SURVIVORS.—

13 (1) IN GENERAL.—Subsection (e) of section
14 3628 of that Act (114 Stat. 1654A–506) is amended
15 to read as follows:

16 “(e) SURVIVORS.—(1) If a covered employee dies be-
17 fore accepting payment of compensation under this sec-
18 tion, whether or not the death is the result of the covered
19 employee’s occupational illness, the survivors of the cov-
20 ered employee who are living at the time of payment of
21 compensation under this section shall receive payment of
22 compensation under this section in lieu of the covered em-
23 ployee as follows:

24 “(A) If such living survivors of the covered em-
25 ployee include a spouse and one or more children—

1 “(i) the spouse shall receive one-half of the
2 amount of compensation provided for the cov-
3 ered employee under this section; and

4 “(ii) each child shall receive an equal share
5 of the remaining one-half of the amount of the
6 compensation provided for the covered employee
7 under this section.

8 “(B) If such living survivors of the covered em-
9 ployee include a spouse or one or more children, but
10 not both a spouse and one or more children—

11 “(i) the spouse shall receive the amount of
12 compensation provided for the covered employee
13 under this section; or

14 “(ii) each child shall receive an equal share
15 of the amount of the compensation provided for
16 the covered employee under this section.

17 “(C) If such living survivors of the covered em-
18 ployee do not include a spouse or any children, but
19 do include one or both parents, one or more grand-
20 parents, one or more grandchildren, or any combina-
21 tion of such individuals, each such individual shall
22 receive an equal share of the amount of the com-
23 pensation provided for the covered employee under
24 this section.

1 “(2) For purposes of this subsection, the term ‘child’,
 2 in the case of a covered employee, means any child of the
 3 covered employee, including a natural child, adopted child,
 4 or step-child who lived with the covered employee in a par-
 5 ent-child relationship.”.

6 (2) URANIUM EMPLOYEES.—Subsection (e) of
 7 section 3630 of that Act (114 Stat. 1654A–507) is
 8 amended to read as follows:

9 “(e) SURVIVORS.—(1) If a covered uranium employee
 10 dies before accepting payment of compensation under this
 11 section, whether or not the death is the result of the cov-
 12 ered uranium employee’s occupational illness, the sur-
 13 vivors of the covered uranium employee who are living at
 14 the time of payment of compensation under this section
 15 shall receive payment of compensation under this section
 16 in lieu of the covered uranium employee as follows:

17 “(A) If such living survivors of the covered ura-
 18 nium employee include a spouse and one or more
 19 children—

20 “(i) the spouse shall receive one-half of the
 21 amount of compensation provided for the cov-
 22 ered uranium employee under this section; and

23 “(ii) each child shall receive an equal share
 24 of the remaining one-half of the amount of the

1 compensation provided for the covered uranium
2 employee under this section.

3 “(B) If such living survivors of the covered ura-
4 nium employee include a spouse or one or more chil-
5 dren, but not both a spouse and one or more
6 children—

7 “(i) the spouse shall receive the amount of
8 compensation provided for the covered uranium
9 employee under this section; or

10 “(ii) each child shall receive an equal share
11 of the amount of the compensation provided for
12 the covered uranium employee under this sec-
13 tion.

14 “(C) If such living survivors of the covered ura-
15 nium employee do not include a spouse or any chil-
16 dren, but do include one or both parents, one or
17 more grandparents, one or more grandchildren, or
18 any combination of such individuals, each such indi-
19 vidual shall receive an equal share of the amount of
20 the compensation provided for the covered uranium
21 employee under this section.

22 “(2) For purposes of this subsection, the term ‘child’,
23 in the case of a covered uranium employee, means any
24 child of the covered employee, including a natural child,

1 adopted child, or step-child who lived with the covered em-
 2 ployee in a parent-child relationship.”.

3 (3) REPEAL OF SUPERSEDED PROVISION.—

4 Paragraph (18) of section 3621 of that Act (114
 5 Stat. 1654A–502) is repealed.

6 (4) EFFECTIVE DATE.—The amendments made
 7 by this subsection shall take effect on July 1, 2001.

8 (e) DISMISSAL OF PENDING SUITS.—Section 3645(d)
 9 of that Act (114 Stat. 1654A–510) is amended by striking
 10 “the plaintiff shall not” and all that follows through the
 11 end and inserting “and was not dismissed as of the date
 12 of the enactment of the National Defense Authorization
 13 Act for Fiscal Year 2002, the plaintiff shall be eligible for
 14 compensation or benefits under subtitle B only if the
 15 plaintiff dismisses such case not later than December 31,
 16 2003.”.

17 (f) ATTORNEY FEES.—Section 3648 of that Act (114
 18 Stat. 1654A–511) is amended—

19 (1) in subsection (b)—

20 (A) in paragraph (1), by striking “and” at
 21 the end;

22 (B) in paragraph (2), by striking the pe-
 23 riod at the end and inserting “; and”; and

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

1 “(3) 10 percent of any compensation paid
 2 under the claim for assisting with or representing a
 3 claimant seeking such compensation by the provision
 4 of services other than, or in addition to, services in
 5 connection with the filing of an initial claim covered
 6 by paragraph (1).”;

7 (2) by redesignating subsection (c) and sub-
 8 section (d); and

9 (3) by inserting after subsection (b) the fol-
 10 lowing new subsection (c):

11 “(c) INAPPLICABILITY TO SERVICES PROVIDED
 12 AFTER AWARD OF COMPENSATION.—This section shall
 13 not apply with respect to any representation or assistance
 14 provided to an individual awarded compensation under
 15 subtitle B after the award of compensation.”.

16 (g) STUDY OF RESIDUAL CONTAMINATION OF FA-
 17 CILITIES.—(1) The National Institute for Occupational
 18 Safety and Health shall, with the cooperation of the De-
 19 partment of Energy and the Department of Labor, con-
 20 duct a study on the following:

21 (A) Whether or not significant contamination
 22 remained in any atomic weapons employer facility or
 23 facility of a beryllium vendor after such facility dis-
 24 continued activities relating to the production of nu-
 25 clear weapons.

1 (B) If so, whether or not such contamination
2 could have caused or substantially contributed to the
3 cancer of a covered employee with cancer or a cov-
4 ered beryllium illness, as the case may be.

5 (2)(A) Not later than 180 days after the date of the
6 enactment of this Act, the National Institute for Occupa-
7 tional Safety and Health shall submit to the congressional
8 defense committees a report on the progress made as of
9 the date of the report on the study under paragraph (1).

10 (B) Not later than one year after the date of the en-
11 actment of this Act, the National Institute shall submit
12 to the congressional defense committees a final report on
13 the study under paragraph (1).

14 (3) Amounts for the study under paragraph (1) shall
15 be derived from amounts authorized to be appropriated
16 by section 3614(a) of the Energy Employees Occupational
17 Illness Compensation Program Act of 2000 (114 Stat.
18 1654A–498).

19 (4) In this subsection:

20 (A) The terms “atomic weapons employer facil-
21 ity”, “beryllium vendor”, “covered employee with
22 cancer”, and “covered beryllium illness” have the
23 meanings given those terms in section 3621 of the
24 Energy Employees Occupational Illness Compensa-
25 tion Program Act of 2000 (114 Stat. 1654A–498).

1 (B) The term “contamination” means the pres-
 2 ence of any material exposure to which could cause
 3 or substantially contribute to the cancer of a covered
 4 employee with cancer or a covered beryllium illness,
 5 as the case may be.

6 **SEC. 3152. DEPARTMENT OF ENERGY COUNTERINTEL-**
 7 **LIGENCE POLYGRAPH PROGRAM.**

8 (a) INTERIM COUNTERINTELLIGENCE POLYGRAPH
 9 PROGRAM.—(1) Not later than 120 days after the date
 10 of enactment of this Act, the Secretary of Energy shall
 11 submit to the congressional defense committees a plan for
 12 conducting, as part of the Department of Energy per-
 13 sonnel assurance programs, an interim counterintelligence
 14 polygraph program consisting of polygraph examinations
 15 of Department of Energy employees, or contractor em-
 16 ployees, at Department facilities. The purpose of examina-
 17 tions under the interim program is to minimize the poten-
 18 tial for release or disclosure of classified data, materials,
 19 or information until the program required under sub-
 20 section (b) is in effect.

21 (2) The Secretary may exclude from examinations
 22 under the interim program any position or class of posi-
 23 tions (as determined by the Secretary) for which the indi-
 24 vidual or individuals in such position or class of
 25 positions—

1 (A) either—

2 (i) operate in a controlled environment
3 that does not afford an opportunity, through
4 action solely by the individual or individuals, to
5 inflict damage on or impose risks to national
6 security; and

7 (ii) have duties, functions, or responsibil-
8 ities which are compartmentalized or supervised
9 such that the individual or individuals do not
10 impose risks to national security; or

11 (B) do not have routine access to top secret Re-
12 stricted Data.

13 (3) The plan shall ensure that individuals who under-
14 go examinations under the interim program receive protec-
15 tions as provided under part 40 of title 49, Code of Fed-
16 eral Regulations.

17 (4) To ensure that administration of the interim pro-
18 gram does not disrupt safe operations of a facility, the
19 plan shall insure notification of the management of the
20 facility at least 14 days in advance of any examination
21 scheduled under the interim program for any employees
22 of the facility.

23 (5) The plan shall include procedures under the in-
24 terim program for—

1 (A) identifying and addressing so-called “false
2 positive” results of polygraph examinations; and

3 (B) ensuring that adverse personnel actions not
4 be taken against an individual solely by reason of
5 the individual’s physiological reaction to a question
6 in a polygraph examination, unless reasonable ef-
7 forts are first made to independently determine
8 through alternative means the veracity of the indi-
9 vidual’s response to the question.

10 (b) NEW COUNTERINTELLIGENCE POLYGRAPH PRO-
11 GRAM.—(1) Not later than six months after obtaining the
12 results of the Polygraph Review, the Secretary shall pre-
13 scribe a proposed rule containing requirements for a coun-
14 terintelligence polygraph program for the Department of
15 Energy. The purpose of the program is to minimize the
16 potential for release or disclosure of classified data, mate-
17 rials, or information.

18 (2) The Secretary shall prescribe the proposed rule
19 under this subsection in accordance with the provisions of
20 subchapter II of chapter 5 of title 5, United States Code
21 (commonly referred to as the Administrative Procedures
22 Act).

23 (3) In prescribing the proposed rule under this sub-
24 section, the Secretary may include in requirements under

1 the proposed rule any requirement or exclusion provided
2 for in paragraphs (2) through (5) of subsection (a).

3 (4) In prescribing the proposed rule under this sub-
4 section, the Secretary shall take into account the results
5 of the Polygraph Review.

6 (c) REPEAL OF EXISTING POLYGRAPH PROGRAM.—
7 Section 3154 of the Department of Energy Facilities Safe-
8 guards, Security, and Counterintelligence Enhancement
9 Act of 1999 (subtitle D of title XXXI of Public Law 106–
10 65; 42 U.S.C. 7383h) is repealed.

11 (d) REPORT ON FURTHER ENHANCEMENT OF PER-
12 SONNEL SECURITY PROGRAM.—(1) Not later than De-
13 cember 31, 2002, the Administrator for Nuclear Security
14 shall submit to Congress a report setting forth the rec-
15 ommendations of the Administrator for any legislative ac-
16 tion that the Administrator considers appropriate in order
17 to enhance the personnel security program of the Depart-
18 ment of Energy.

19 (2) Any recommendations under paragraph (1) re-
20 garding the use of polygraphs shall take into account the
21 results of the Polygraph Review.

22 (e) DEFINITIONS.—In this section:

23 (1) The term “Polygraph Review” means the
24 review of the Committee to Review the Scientific

1 Evidence on the Polygraph of the National Academy
2 of Sciences.

3 (2) The term “Restricted Data” has the mean-
4 ing given that term in section 11 y. of the Atomic
5 Energy Act of 1954 (42 U.S.C. 2014(y)).

6 **SEC. 3153. ONE-YEAR EXTENSION OF AUTHORITY OF DE-**
7 **PARTMENT OF ENERGY TO PAY VOLUNTARY**
8 **SEPARATION INCENTIVE PAYMENTS.**

9 Section 3161(a) of the National Defense Authoriza-
10 tion Act for Fiscal Year 2000 (Public Law 106–65; 113
11 Stat. 942; 5 U.S.C. 5597 note) is amended by striking
12 “January 1, 2003” and inserting “January 1, 2004”.

13 **SEC. 3154. ADDITIONAL OBJECTIVE FOR DEPARTMENT OF**
14 **ENERGY DEFENSE NUCLEAR FACILITY WORK**
15 **FORCE RESTRUCTURING PLAN.**

16 Section 3161(c) of the National Defense Authoriza-
17 tion Act for Fiscal Year 1993 (Public Law 102–484; 42
18 U.S.C. 7274h(c)) is amended by adding at the end the
19 following new paragraph:

20 “(7) The Department of Energy should provide
21 assistance to promote the diversification of the
22 economies of communities in the vicinity of any De-
23 partment of Energy defense nuclear facility that
24 may, as determined by the Secretary, be affected by

1 a future restructuring of its work force under the
2 plan.”.

3 **SEC. 3155. MODIFICATION OF DATE OF REPORT OF PANEL**
4 **TO ASSESS THE RELIABILITY, SAFETY, AND**
5 **SECURITY OF THE UNITED STATES NUCLEAR**
6 **STOCKPILE.**

7 Section 3159(d) of the Strom Thurmond National
8 Defense Authorization Act for Fiscal Year 1999 (Public
9 Law 105–261; 42 U.S.C. 2121 note) is amended by strik-
10 ing “of each year, beginning with 1999,” and inserting
11 “of 1999 and 2000, and not later than February 1,
12 2002,”.

13 **SEC. 3156. REPORTS ON ACHIEVEMENT OF MILESTONES**
14 **FOR NATIONAL IGNITION FACILITY.**

15 (a) NOTIFICATION OF ACHIEVEMENT.—The Admin-
16 istrator for Nuclear Security shall notify the congressional
17 defense committees when the National Ignition Facility
18 (NIF), Lawrence Livermore National Laboratory, Cali-
19 fornia, achieves each Level one milestone and Level two
20 milestone for the National Ignition Facility.

21 (b) REPORT ON FAILURE OF TIMELY ACHIEVE-
22 MENT.—Not later than 10 days after the date on which
23 the National Ignition Facility fails to achieve a Level one
24 milestone or Level two milestone for the National Ignition
25 Facility in a timely manner, the Administrator shall sub-

1 mit to the congressional defense committees a report on
2 the failure. The report on a failure shall include—

3 (1) a statement of the failure of the National
4 Ignition Facility to achieve the milestone concerned
5 in a timely manner;

6 (2) an explanation for the failure; and

7 (3) either—

8 (A) an estimate when the milestone will be
9 achieved; or

10 (B) if the milestone will not be achieved—

11 (i) a statement that the milestone will
12 not be achieved;

13 (ii) an explanation why the milestone
14 will not be achieved; and

15 (iii) the implications for the overall
16 scope, schedule, and budget of the Na-
17 tional Ignition Facility project of not
18 achieving the milestone.

19 (c) MILESTONES.—For purposes of this section, the
20 Level one milestones and Level two milestones for the Na-
21 tional Ignition Facility are as established in the August
22 2000 revised National Ignition Facility baseline document.

1 **SEC. 3157. SUPPORT FOR PUBLIC EDUCATION IN THE VI-**
2 **CINITY OF LOS ALAMOS NATIONAL LABORA-**
3 **TORY, NEW MEXICO.**

4 (a) SUPPORT IN FISCAL YEAR 2002.—From
5 amounts authorized to be appropriated or otherwise made
6 available to the Secretary of Energy by this title—

7 (1) \$6,900,000 shall be available for payment
8 by the Secretary for fiscal year 2002 to the Los Ala-
9 mos National Laboratory Foundation, a not-for-
10 profit educational foundation chartered in accord-
11 ance with section 3167(a) of the National Defense
12 Authorization Act for Fiscal Year 1998 (Public Law
13 105–85; 111 Stat. 2052); and

14 (2) \$8,000,000 shall be available for extension
15 of the contract between the Department of Energy
16 and the Los Alamos Public Schools through fiscal
17 year 2002.

18 (b) SUPPORT THROUGH FISCAL YEAR 2004.—Sub-
19 ject to the availability of appropriations for such purposes,
20 the Secretary may—

21 (1) make a payment for each of fiscal years
22 2003 and 2004 similar in amount to the payment
23 referred to in subsection (a)(1) for fiscal year 2002;
24 and

25 (2) provide for a contract extension through fis-
26 cal year 2004 similar to the contract extension re-

1 ferred to in subsection (a)(2), including the use of
2 an amount for that purpose in each of fiscal years
3 2003 and 2004 similar to the amount available for
4 that purpose in fiscal year 2002 under that sub-
5 section.

6 (c) USE OF FUNDS.—The Los Alamos National Lab-
7 oratory Foundation shall—

8 (1) use funds provided the Foundation under
9 this section as a contribution to the endowment fund
10 of the Foundation; and

11 (2) use the income generated from investments
12 in the endowment fund that are attributable to pay-
13 ments made under this section to fund programs to
14 support the educational needs of children in public
15 schools in the vicinity of Los Alamos National Lab-
16 oratory.

17 (d) REPORT.—Not later than March 1, 2003, the Ad-
18 ministrators for Nuclear Security shall submit to the con-
19 gressional defense committees a report setting for the fol-
20 lowing:

21 (1) An evaluation of the requirements for con-
22 tinued payments after fiscal year 2004 into the en-
23 dowment fund of the Los Alamos Laboratory Foun-
24 dation to enable the Foundation to meet the goals
25 of the Department of Energy to support the recruit-

1 ment and retention of staff at the Los Alamos Na-
2 tional Laboratory.

3 (2) Recommendations regarding the advisability
4 of any further direct support after fiscal year 2004
5 for the Los Alamos Public Schools.

6 **SEC. 3158. IMPROVEMENTS TO CORRAL HOLLOW ROAD,**
7 **LIVERMORE, CALIFORNIA.**

8 Of the amounts authorized to be appropriated by sec-
9 tion 3101, not more than \$325,000 shall be available to
10 the Secretary of Energy for safety improvements to Corral
11 Hollow Road adjacent to Site 300 of Lawrence Livermore
12 National Laboratory, California.

13 **SEC. 3159. ANNUAL ASSESSMENT AND REPORT ON VULNER-**
14 **ABILITY OF DEPARTMENT OF ENERGY FA-**
15 **CILITIES TO TERRORIST ATTACK.**

16 (a) IN GENERAL.—Part C of title VI of the Depart-
17 ment of Energy Organization Act (42 U.S.C. 7251 et seq.)
18 is amended by adding at the end the following new section:

19 “ANNUAL ASSESSMENT AND REPORT ON VULNERABILITY
20 OF FACILITIES TO TERRORIST ATTACK

21 “SEC. 663. (a) The Secretary shall, on an annual
22 basis, conduct a comprehensive assessment of the vulner-
23 ability of Department facilities to terrorist attack.

24 “(b) Not later than January 31 each year, the Sec-
25 retary shall submit to Congress a report on the assessment
26 conducted under subsection (a) during the preceding year.

1 Each report shall include the results of the assessment
 2 covered by such report, together with such findings and
 3 recommendations as the Secretary considers appro-
 4 priate.”.

5 (b) CLERICAL AMENDMENT.—The table of sections
 6 at the beginning of that Act is amended by inserting after
 7 the item relating to section 662 the following new item:

“Sec. 663. Annual assessment and report on vulnerability of facilities to ter-
 rorist attack.”.

8 **Subtitle F—Rocky Flats National** 9 **Wildlife Refuge**

10 **SEC. 3171. SHORT TITLE.**

11 This subtitle may be cited as the “Rocky Flats Na-
 12 tional Wildlife Refuge Act of 2001”.

13 **SEC. 3172. FINDINGS AND PURPOSES.**

14 (a) FINDINGS.—Congress finds the following:

15 (1) The Federal Government, through the
 16 Atomic Energy Commission, acquired the Rocky
 17 Flats site in 1951 and began operations there in
 18 1952. The site remains a Department of Energy fa-
 19 cility. Since 1992, the mission of the Rocky Flats
 20 site has changed from the production of nuclear
 21 weapons components to cleanup and closure in a
 22 manner that is safe, environmentally and socially re-
 23 sponsible, physically secure, and cost-effective.

1 (2) The site has generally remained undisturbed
2 since its acquisition by the Federal Government.

3 (3) The State of Colorado is experiencing in-
4 creasing growth and development, especially in the
5 metropolitan Denver Front Range area in the vicin-
6 ity of the Rocky Flats site. That growth and devel-
7 opment reduces the amount of open space and there-
8 by diminishes for many metropolitan Denver com-
9 munities the vistas of the striking Front Range
10 mountain backdrop.

11 (4) Some areas of the site contain contamina-
12 tion and will require further response action. The
13 national interest requires that the ongoing cleanup
14 and closure of the entire site be completed safely, ef-
15 fectively, and without unnecessary delay and that
16 the site thereafter be retained by the United States
17 and managed so as to preserve the value of the site
18 for open space and wildlife habitat.

19 (5) The Rocky Flats site provides habitat for
20 many wildlife species, including a number of threat-
21 ened and endangered species, and is marked by the
22 presence of rare xeric tallgrass prairie plant commu-
23 nities. Establishing the site as a unit of the National
24 Wildlife Refuge System will promote the preserva-

1 tion and enhancement of those resources for present
2 and future generations.

3 (b) PURPOSES.—The purposes of this subtitle are—

4 (1) to provide for the establishment of the
5 Rocky Flats site as a national wildlife refuge fol-
6 lowing cleanup and closure of the site;

7 (2) to create a process for public input on ref-
8 uge management before transfer of administrative
9 jurisdiction to the Secretary of the Interior; and

10 (3) to ensure that the Rocky Flats site is thor-
11 oughly and completely cleaned up.

12 **SEC. 3173. DEFINITIONS.**

13 In this subtitle:

14 (1) CLEANUP AND CLOSURE.—The term
15 “cleanup and closure” means the response actions
16 and decommissioning activities being carried out at
17 Rocky Flats by the Department of Energy under the
18 1996 Rocky Flats Cleanup Agreement, the closure
19 plans and baselines, and any other relevant docu-
20 ments or requirements.

21 (2) COALITION.—The term “Coalition” means
22 the Rocky Flats Coalition of Local Governments es-
23 tablished by the Intergovernmental Agreement,
24 dated February 16, 1999, among—

25 (A) the city of Arvada, Colorado;

- 1 (B) the city of Boulder, Colorado;
- 2 (C) the city of Broomfield, Colorado;
- 3 (D) the city of Westminster, Colorado;
- 4 (E) the town of Superior, Colorado;
- 5 (F) Boulder County, Colorado; and
- 6 (G) Jefferson County, Colorado.

7 (3) HAZARDOUS SUBSTANCE.—The term “haz-
8 arduous substance” means—

9 (A) any hazardous substance, pollutant, or
10 contaminant regulated under the Comprehen-
11 sive Environmental Response, Compensation,
12 and Liability Act of 1980 (42 U.S.C. 9601 et
13 seq.); and

14 (B) any—

15 (i) petroleum (including any petro-
16 leum product or derivative);

17 (ii) unexploded ordnance;

18 (iii) military munition or weapon; or

19 (iv) nuclear or radioactive material;

20 not otherwise regulated as a hazardous sub-
21 stance under any law in effect on the date of
22 enactment of this Act.

23 (4) POLLUTANT OR CONTAMINANT.—The term
24 “pollutant or contaminant” has the meaning given
25 the term in section 101 of the Comprehensive Envi-

1 ronmental Response, Compensation, and Liability
2 Act of 1980 (42 U.S.C. 9601).

3 (5) REFUGE.—The term “refuge” means the
4 Rocky Flats National Wildlife Refuge established
5 under section 3177.

6 (6) RESPONSE ACTION.—The term “response
7 action” has the meaning given the term “response”
8 in section 101 of the Comprehensive Environmental
9 Response, Compensation, and Liability Act of 1980
10 (42 U.S.C. 9601) or any similar requirement under
11 State law.

12 (7) RFCA.—The term “RFCA” means the
13 Rocky Flats Cleanup Agreement, an intergovern-
14 mental agreement, dated July 19, 1996, among—

15 (A) the Department of Energy;

16 (B) the Environmental Protection Agency;

17 and

18 (C) the Department of Public Health and
19 Environment of the State of Colorado.

20 (8) ROCKY FLATS.—

21 (A) IN GENERAL.—The term “Rocky
22 Flats” means the Rocky Flats Environmental
23 Technology Site, Colorado, a defense nuclear fa-
24 cility, as depicted on the map entitled “Rocky
25 Flats Environmental Technology Site”, dated

July 15, 1998, and available for inspection in the appropriate offices of the United States Fish and Wildlife Service.

(B) EXCLUSIONS.—The term “Rocky Flats” does not include—

(i) land and facilities of the Department of Energy’s National Wind Technology Center; or

(ii) any land and facilities not within the boundaries depicted on the map identified in subparagraph (A).

(9) ROCKY FLATS TRUSTEES.—The term “Rocky Flats Trustees” means the Federal and State of Colorado entities that have been identified as trustees for Rocky Flats under section 107(f)(2) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9607(f)(2)).

(10) SECRETARY.—The term “Secretary” means the Secretary of Energy.

SEC. 3174. FUTURE OWNERSHIP AND MANAGEMENT.

(a) FEDERAL OWNERSHIP.—Except as expressly provided in this subtitle or any Act enacted after the date of enactment of this Act, all right, title, and interest of the United States, held on or acquired after the date of

1 enactment of this Act, to land or interest therein, includ-
2 ing minerals, within the boundaries of Rocky Flats shall
3 be retained by the United States.

4 (b) LINDSAY RANCH.—The structures that comprise
5 the former Lindsay Ranch homestead site in the Rock
6 Creek Reserve area of the buffer zone, as depicted on the
7 map referred to in section 3173(8), shall be permanently
8 preserved and maintained in accordance with the National
9 Historic Preservation Act (16 U.S.C. 470 et seq.).

10 (c) PROHIBITION ON ANNEXATION.—Neither the
11 Secretary nor the Secretary of the Interior shall allow the
12 annexation of land within the refuge by any unit of local
13 government.

14 (d) PROHIBITION ON THROUGH ROADS.—Except as
15 provided in subsection (e), no public road shall be con-
16 structed through Rocky Flats.

17 (e) TRANSPORTATION RIGHT-OF-WAY.—

18 (1) IN GENERAL.—

19 (A) AVAILABILITY OF LAND.—On submis-
20 sion of an application meeting each of the con-
21 ditions specified in paragraph (2), the Sec-
22 retary, in consultation with the Secretary of the
23 Interior, shall make available land along the
24 eastern boundary of Rocky Flats for the sole

1 purpose of transportation improvements along
2 Indiana Street.

3 (B) BOUNDARIES.—Land made available
4 under this paragraph may not extend more
5 than 300 feet from the west edge of the Indiana
6 Street right-of-way, as that right-of-way exists
7 as of the date of enactment of this Act.

8 (C) EASEMENT OR SALE.—Land may be
9 made available under this paragraph by ease-
10 ment or sale to 1 or more appropriate entities.

11 (D) COMPLIANCE WITH APPLICABLE
12 LAW.—Any action under this paragraph shall
13 be taken in compliance with applicable law.

14 (2) CONDITIONS.—An application for land
15 under this subsection may be submitted by any
16 county, city, or other political subdivision of the
17 State of Colorado and shall include documentation
18 demonstrating that—

19 (A) the transportation project is con-
20 structed so as to minimize adverse effects on
21 the management of Rocky Flats as a wildlife
22 refuge; and

23 (B) the transportation project is included
24 in the regional transportation plan of the met-
25 ropolitan planning organization designated for

1 the Denver metropolitan area under section
2 5303 of title 49, United States Code.

3 **SEC. 3175. TRANSFER OF MANAGEMENT RESPONSIBILITIES**
4 **AND JURISDICTION OVER ROCKY FLATS.**

5 (a) IN GENERAL.—

6 (1) MEMORANDUM OF UNDERSTANDING.—

7 (A) IN GENERAL.—Not later than 1 year
8 after the date of enactment of this Act, the Sec-
9 retary and the Secretary of the Interior shall
10 publish in the Federal Register a draft memo-
11 randum of understanding under which—

12 (i) the Secretary shall provide for the
13 subsequent transfer of administrative juris-
14 diction over Rocky Flats to the Secretary
15 of the Interior; and

16 (ii) the Secretary of the Interior shall
17 manage natural resources at Rocky Flats
18 until the date on which the transfer be-
19 comes effective.

20 (B) REQUIRED ELEMENTS.—

21 (i) IN GENERAL.—Subject to clause
22 (ii), the memorandum of understanding
23 shall—

24 (I) provide for the division of re-
25 sponsibilities between the Secretary

1 and the Secretary of the Interior nec-
2 essary to carry out the proposed
3 transfer of land;

4 (II) for the period ending on the
5 date of the transfer—

6 (aa) provide for the division
7 of responsibilities between the
8 Secretary and the Secretary of
9 the Interior; and

10 (bb) provide for the manage-
11 ment of the land proposed to be
12 transferred by the Secretary of
13 the Interior as a national wildlife
14 refuge, for the purposes provided
15 under section 3177(d)(2);

16 (III) provide for the annual
17 transfer of funds from the Secretary
18 to the Secretary of the Interior for the
19 management of the land proposed to
20 be transferred; and

21 (IV) subject to subsection (b)(1),
22 identify the land proposed to be trans-
23 ferred to the Secretary of the Interior.

24 (ii) NO REDUCTION IN FUNDS.—The
25 memorandum of understanding and the

1 subsequent transfer shall not result in any
2 reduction in funds available to the Sec-
3 retary for cleanup and closure of Rocky
4 Flats.

5 (C) DEADLINE.—Not later than 18
6 months after the date of enactment of this Act,
7 the Secretary and Secretary of the Interior
8 shall finalize and implement the memorandum
9 of understanding.

10 (2) EXCLUSIONS.—The transfer under para-
11 graph (1) shall not include the transfer of any prop-
12 erty or facility over which the Secretary retains ju-
13 risdiction, authority, and control under subsection
14 (b)(1).

15 (3) CONDITION.—The transfer under paragraph
16 (1) shall occur—

17 (A) not earlier than the date on which the
18 Administrator of the Environmental Protection
19 Agency certifies to the Secretary and to the
20 Secretary of the Interior that the cleanup and
21 closure and all response actions at Rocky Flats
22 have been completed, except for the operation
23 and maintenance associated with those actions;
24 but

1 (B) not later than 30 business days after
2 that date.

3 (4) COST; IMPROVEMENTS.—The transfer—

4 (A) shall be completed without cost to the
5 Secretary of the Interior; and

6 (B) may include such buildings or other
7 improvements as the Secretary of the Interior
8 has requested in writing for refuge management
9 purposes.

10 (b) PROPERTY AND FACILITIES EXCLUDED FROM
11 TRANSFERS.—

12 (1) IN GENERAL.—The Secretary shall retain
13 jurisdiction, authority, and control over all real prop-
14 erty and facilities at Rocky Flats that are to be used
15 for—

16 (A) any necessary and appropriate long-
17 term operation and maintenance facility to
18 intercept, treat, or control a radionuclide or any
19 other hazardous substance, pollutant, or con-
20 taminant; and

21 (B) any other purpose relating to a re-
22 sponse action or any other action that is re-
23 quired to be carried out at Rocky Flats.

24 (2) CONSULTATION.—

25 (A) IDENTIFICATION OF PROPERTY.—

1 (i) IN GENERAL.—The Secretary shall
 2 consult with the Secretary of the Interior,
 3 the Administrator of the Environmental
 4 Protection Agency, and the State of Colo-
 5 rado on the identification of all property to
 6 be retained under this subsection to ensure
 7 the continuing effectiveness of response ac-
 8 tions.

9 (ii) AMENDMENT TO MEMORANDUM
 10 OF UNDERSTANDING.—

11 (I) IN GENERAL.—After the con-
 12 sultation, the Secretary and the Sec-
 13 retary of the Interior shall by mutual
 14 consent amend the memorandum of
 15 understanding required under sub-
 16 section (a) to specifically identify the
 17 land for transfer and provide for de-
 18 termination of the exact acreage and
 19 legal description of the property to be
 20 transferred by a survey mutually sat-
 21 isfactory to the Secretary and the Sec-
 22 retary of the Interior.

23 (II) COUNCIL ON ENVIRON-
 24 MENTAL QUALITY.—In the event the
 25 Secretary and the Secretary of the In-

1 terior cannot agree on the land to be
2 retained or transferred, the Secretary
3 or the Secretary of the Interior may
4 refer the issue to the Council on Envi-
5 ronmental Quality, which shall decide
6 the issue within 45 days of such refer-
7 ral, and the Secretary and the Sec-
8 retary of the Interior shall then
9 amend the memorandum of under-
10 standing required under subsection
11 (a) in conformity with the decision of
12 the Council on Environmental Qual-
13 ity.

14 (B) MANAGEMENT OF PROPERTY.—

15 (i) IN GENERAL.—The Secretary shall
16 consult with the Secretary of the Interior
17 on the management of the retained prop-
18 erty to minimize any conflict between the
19 management of property transferred to the
20 Secretary of the Interior and property re-
21 tained by the Secretary for response ac-
22 tions.

23 (ii) CONFLICT.—In the case of any
24 such conflict, implementation and mainte-

1 nance of the response action shall take pri-
2 ority.

3 (3) ACCESS.—As a condition of the transfer
4 under subsection (a), the Secretary shall be provided
5 such easements and access as are reasonably re-
6 quired to carry out any obligation or address any li-
7 ability.

8 (c) ADMINISTRATION.—

9 (1) IN GENERAL.—On completion of the trans-
10 fer under subsection (a), the Secretary of the Inte-
11 rior shall administer Rocky Flats in accordance with
12 this subtitle subject to—

13 (A) any response action or institutional
14 control at Rocky Flats carried out by or under
15 the authority of the Secretary under the Com-
16 prehensive Environmental Response, Compensa-
17 tion, and Liability Act of 1980 (42 U.S.C. 9601
18 et seq.); and

19 (B) any other action required under any
20 other Federal or State law to be carried out by
21 or under the authority of the Secretary.

22 (2) CONFLICT.—In the case of any conflict be-
23 tween the management of Rocky Flats by the Sec-
24 retary of the Interior and the conduct of any re-
25 sponse action or other action described in subpara-

graph (A) or (B) of paragraph (1), the response action or other action shall take priority.

(3) CONTINUING ACTIONS.—Except as provided in paragraph (1), nothing in this subsection affects any response action or other action initiated at Rocky Flats on or before the date of the transfer under subsection (a).

(d) LIABILITY.—

(1) IN GENERAL.—The Secretary shall retain any obligation or other liability for land transferred under subsection (a) under—

(A) the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.); or

(B) any other applicable law.

(2) RESPONSE ACTIONS.—

(A) IN GENERAL.—The Secretary shall be liable for the cost of any necessary response actions, including any costs or claims asserted against the Secretary, for any release, or substantial threat of release, of a hazardous substance, if the release, or substantial threat of release, is—

(i) located on or emanating from land—

1 (I) identified for transfer by this
2 section; or

3 (II) subsequently transferred
4 under this section;

5 (ii)(I) known at the time of transfer;

6 or

7 (II) subsequently discovered; and

8 (iii) attributable to—

9 (I) management of the land by
10 the Secretary; or

11 (II) the use, management, stor-
12 age, release, treatment, or disposal of
13 a hazardous substance on the land by
14 the Secretary.

15 (B) RECOVERY FROM THIRD PARTY.—

16 Nothing in this paragraph precludes the Sec-
17 retary, on behalf of the United States, from
18 bringing a cost recovery, contribution, or other
19 action against a third party that the Secretary
20 reasonably believes may have contributed to the
21 release, or substantial threat of release, of a
22 hazardous substance.

23 **SEC. 3176. CONTINUATION OF ENVIRONMENTAL CLEANUP**
24 **AND CLOSURE.**

25 (a) ONGOING CLEANUP AND CLOSURE.—

1 (1) IN GENERAL.—The Secretary shall—

2 (A) carry out to completion cleanup and
3 closure at Rocky Flats; and

4 (B) conduct any necessary operation and
5 maintenance of response actions.

6 (2) NO RESTRICTION ON USE OF NEW TECH-
7 NOLOGIES.—Nothing in this subtitle, and no action
8 taken under this subtitle, restricts the Secretary
9 from using at Rocky Flats any new technology that
10 may become available for remediation of contamina-
11 tion.

12 (b) RULES OF CONSTRUCTION.—

13 (1) NO RELIEF FROM OBLIGATIONS UNDER
14 OTHER LAW.—

15 (A) IN GENERAL.—Nothing in this sub-
16 title, and no action taken under this subtitle,
17 relieves the Secretary, the Administrator of the
18 Environmental Protection Agency, or any other
19 person from any obligation or other liability
20 with respect to Rocky Flats under the RFCA or
21 any applicable Federal or State law.

22 (B) NO EFFECT ON RFCA.—Nothing in
23 this subtitle impairs or alters any provision of
24 the RFCA.

25 (2) REQUIRED CLEANUP LEVELS.—

1 (A) IN GENERAL.—Except as provided in
 2 subparagraph (B), nothing in this subtitle af-
 3 fects the level of cleanup and closure at Rocky
 4 Flats required under the RFCA or any Federal
 5 or State law.

6 (B) NO EFFECT FROM ESTABLISHMENT AS
 7 NATIONAL WILDLIFE REFUGE.—

8 (i) IN GENERAL.—The requirements
 9 of this subtitle for establishment and man-
 10 agement of Rocky Flats as a national wild-
 11 life refuge shall not reduce the level of
 12 cleanup and closure.

13 (ii) CLEANUP LEVELS.—The Sec-
 14 retary shall conduct cleanup and closure of
 15 Rocky Flats to the levels established for
 16 soil, water, and other media, following a
 17 thorough review, by the parties to the
 18 RFCA and the public (including the
 19 United States Fish and Wildlife Service
 20 and other interested government agencies),
 21 of the appropriateness of the interim levels
 22 in the RFCA.

23 (3) NO EFFECT ON OBLIGATIONS FOR MEAS-
 24 URES TO CONTROL CONTAMINATION.—Nothing in
 25 this subtitle, and no action taken under this subtitle,

1 affects any long-term obligation of the United
2 States, acting through the Secretary, relating to
3 funding, construction, monitoring, or operation and
4 maintenance of—

5 (A) any necessary intercept or treatment
6 facility; or

7 (B) any other measure to control contami-
8 nation.

9 (c) PAYMENT OF RESPONSE ACTION COSTS.—Noth-
10 ing in this subtitle affects the obligation of a Federal de-
11 partment or agency that had or has operations at Rocky
12 Flats resulting in the release or threatened release of a
13 hazardous substance or pollutant or contaminant to pay
14 the costs of response actions carried out to abate the re-
15 lease of, or clean up, the hazardous substance or pollutant
16 or contaminant.

17 (d) CONSULTATION.—In carrying out a response ac-
18 tion at Rocky Flats, the Secretary shall consult with the
19 Secretary of the Interior to ensure that the response ac-
20 tion is carried out in a manner that—

21 (1) does not impair the attainment of the goals
22 of the response action; but

23 (2) minimizes, to the maximum extent prac-
24 ticable, adverse effects of the response action on the
25 refuge.

1 **SEC. 3177. ROCKY FLATS NATIONAL WILDLIFE REFUGE.**

2 (a) ESTABLISHMENT.—Not later than 30 days after
3 the transfer of jurisdiction under section 3175(a), the Sec-
4 retary of the Interior shall establish at Rocky Flats a na-
5 tional wildlife refuge to be known as the “Rocky Flats Na-
6 tional Wildlife Refuge”.

7 (b) COMPOSITION.—The refuge shall consist of the
8 real property subject to the transfer of administrative ju-
9 risdiction under section 3175(a)(1).

10 (c) NOTICE.—The Secretary of the Interior shall pub-
11 lish in the Federal Register a notice of the establishment
12 of the refuge.

13 (d) ADMINISTRATION AND PURPOSES.—

14 (1) IN GENERAL.—The Secretary of the Inte-
15 rior shall manage the refuge in accordance with ap-
16 plicable law, including this subtitle, the National
17 Wildlife Refuge System Administration Act of 1966
18 (16 U.S.C. 668dd et seq.), and the purposes speci-
19 fied in that Act.

20 (2) REFUGE PURPOSES.—At the conclusion of
21 the transfer under section 3175(a)(3), the refuge
22 shall be managed for the purposes of—

23 (A) restoring and preserving native eco-
24 systems;

1 (B) providing habitat for, and population
2 management of, native plants and migratory
3 and resident wildlife;

4 (C) conserving threatened and endangered
5 species (including species that are candidates
6 for listing under the Endangered Species Act of
7 1973 (16 U.S.C. 1531 et seq.)); and

8 (D) providing opportunities for compatible,
9 wildlife-dependent environmental scientific re-
10 search.

11 (3) MANAGEMENT.—In managing the refuge,
12 the Secretary shall ensure that wildlife-dependent
13 recreation and environmental education and inter-
14 pretation are the priority public uses of the refuge.

15 **SEC. 3178. COMPREHENSIVE CONSERVATION PLAN.**

16 (a) IN GENERAL.—Not later than 180 days after the
17 date of enactment of this Act, in developing a comprehen-
18 sive conservation plan in accordance with section 4(e) of
19 the National Wildlife Refuge System Administration Act
20 of 1966 (16 U.S.C. 668dd(e)), the Secretary of the Inte-
21 rior, in consultation with the Secretary, the members of
22 the Coalition, the Governor of the State of Colorado, and
23 the Rocky Flats Trustees, shall establish a comprehensive
24 planning process that involves the public and local commu-
25 nities.

1 (b) OTHER PARTICIPANTS.—In addition to the enti-
 2 ties specified in subsection (a), the comprehensive plan-
 3 ning process shall include the opportunity for direct in-
 4 volvement of entities not members of the Coalition as of
 5 the date of enactment of this Act, including the Rocky
 6 Flats Citizens' Advisory Board and the cities of Thornton,
 7 Northglenn, Golden, Louisville, and Lafayette, Colorado.

8 (c) DISSOLUTION OF COALITION.—If the Coalition
 9 dissolves, or if any Coalition member elects to leave the
 10 Coalition during the comprehensive planning process
 11 under this section—

12 (1) the comprehensive planning process under
 13 this section shall continue; and

14 (2) an opportunity shall be provided to each en-
 15 tity that is a member of the Coalition as of Sep-
 16 tember 1, 2000, for direct involvement in the com-
 17 prehensive planning process.

18 (d) CONTENTS.—In addition to the requirements
 19 under section 4(e) of the National Wildlife Refuge System
 20 Administration Act of 1966 (16 U.S.C. 668dd(e)), the
 21 comprehensive conservation plan required by this section
 22 shall address and make recommendations on the following:

23 (1) The identification of any land described in
 24 section 3174(e) that could be made available for
 25 transportation purposes.

1 (2) The potential for leasing any land in Rocky
2 Flats for the National Renewable Energy Labora-
3 tory to carry out projects relating to the National
4 Wind Technology Center.

5 (3) The characteristics and configuration of any
6 perimeter fencing that may be appropriate or com-
7 patible for cleanup and closure, refuge, or other pur-
8 poses.

9 (4) The feasibility of locating, and the potential
10 location for, a visitor and education center at the
11 refuge.

12 (5) Any other issues relating to Rocky Flats.

13 (e) REPORT.—Not later than 3 years after the date
14 of enactment of this Act, the Secretary of the Interior
15 shall submit to the Committee on Armed Services of the
16 Senate and the Committee on Resources of the House of
17 Representatives—

18 (1) the comprehensive conservation plan pre-
19 pared under this section; and

20 (2) a report that—

21 (A) outlines the public involvement in the
22 comprehensive planning process; and

23 (B) to the extent that any input or rec-
24 ommendation from the comprehensive planning
25 process is not accepted, clearly states the rea-

1 sons why the input or recommendation is not
2 accepted.

3 **SEC. 3179. PROPERTY RIGHTS.**

4 (a) IN GENERAL.—Except as provided in subsection
5 (c), nothing in this subtitle limits any valid, existing prop-
6 erty right at Rocky Flats that is owned by any person
7 or entity, including, but not limited to—

8 (1) any mineral right;

9 (2) any water right or related easement; and

10 (3) any facility or right-of-way for a utility.

11 (b) ACCESS.—Except as provided in subsection (c),
12 nothing in this subtitle affects any right of an owner of
13 a property right described in subsection (a) to access the
14 owner's property.

15 (c) REASONABLE CONDITIONS.—

16 (1) IN GENERAL.—The Secretary or the Sec-
17 retary of the Interior may impose such reasonable
18 conditions on access to property rights described in
19 subsection (a) as are appropriate for the cleanup
20 and closure of Rocky Flats and for the management
21 of the refuge.

22 (2) NO EFFECT ON APPLICABLE LAW.—Noth-
23 ing in this subtitle affects any other applicable Fed-
24 eral, State, or local law (including any regulation)

1 relating to the use, development, and management of
 2 property rights described in subsection (a).

3 (3) NO EFFECT ON ACCESS RIGHTS.—Nothing
 4 in this subsection precludes the exercise of any ac-
 5 cess right, in existence on the date of enactment of
 6 this Act, that is necessary to perfect or maintain a
 7 water right in existence on that date.

8 (d) PURCHASE OF MINERAL RIGHTS.—

9 (1) IN GENERAL.—The Secretary shall seek to
 10 acquire any and all mineral rights at Rocky Flats
 11 through donation or through purchase or exchange
 12 from willing sellers for fair market value.

13 (2) FUNDING.—The Secretary and the Sec-
 14 retary of the Interior—

15 (A) may use for the purchase of mineral
 16 rights under paragraph (1) funds specifically
 17 provided by Congress; but

18 (B) shall not use for such purchase funds
 19 appropriated by Congress for the cleanup and
 20 closure of Rocky Flats.

21 (e) UTILITY EXTENSION.—

22 (1) IN GENERAL.—The Secretary or the Sec-
 23 retary of the Interior may allow not more than one
 24 extension from an existing utility right-of-way on
 25 Rocky Flats, if necessary.

1 (2) CONDITIONS.—An extension under para-
 2 graph (1) shall be subject to the conditions specified
 3 in subsection (c).

4 (f) EASEMENT SURVEYS.—

5 (1) IN GENERAL.—Subject to paragraph (2),
 6 until the date that is 180 days after the date of en-
 7 actment of this Act, an entity that possesses a de-
 8 creed water right or prescriptive easement relating
 9 to land at Rocky Flats may carry out such surveys
 10 at Rocky Flats as the entity determines are nec-
 11 essary to perfect the right or easement.

12 (2) LIMITATION ON CONDITIONS.—An activity
 13 carried out under paragraph (1) shall be subject
 14 only to such conditions as are imposed—

15 (A) by the Secretary of Energy, before the
 16 date on which the transfer of management re-
 17 sponsibilities under section 3175(a)(3) is com-
 18 pleted, to minimize interference with the clean-
 19 up and closure of Rocky Flats; and

20 (B) by the Secretary of the Interior, on or
 21 after the date on which the transfer of manage-
 22 ment responsibilities under section 3175(a)(3)
 23 is completed, to minimize adverse effects on the
 24 management of the refuge.

1 **SEC. 3180. ROCKY FLATS MUSEUM.**

2 (a) MUSEUM.—In order to commemorate the con-
3 tribution that Rocky Flats and its worker force provided
4 to the winning of the Cold War and the impact that the
5 contribution has had on the nearby communities and the
6 State of Colorado, the Secretary may establish a Rocky
7 Flats Museum.

8 (b) LOCATION.—The Rocky Flats Museum shall be
9 located in the city of Arvada, Colorado, unless, after con-
10 sultation under subsection (c), the Secretary determines
11 otherwise.

12 (c) CONSULTATION.—The Secretary shall consult
13 with the city of Arvada, other local communities, and the
14 Colorado State Historical Society on—

- 15 (1) the development of the museum;
16 (2) the siting of the museum; and
17 (3) any other issues relating to the development
18 and construction of the museum.

19 (d) REPORT.—Not later than three years after the
20 date of enactment of this Act, the Secretary, in coordina-
21 tion with the city of Arvada, shall submit to the Com-
22 mittee on Armed Services of the Senate and the appro-
23 priate committee of the House of Representatives a report
24 on the costs associated with the construction of the mu-
25 seum and any other issues relating to the development and
26 construction of the museum.

1 **SEC. 3181. REPORT ON FUNDING.**

2 At the time of submission of the first budget of the
 3 United States Government submitted by the President
 4 under section 1105 of title 31, United States Code, after
 5 the date of enactment of this Act, and annually thereafter,
 6 the Secretary and the Secretary of the Interior shall report
 7 to the Committee on Armed Services and the Committee
 8 on Appropriations of the Senate and the appropriate com-
 9 mittees of the House of Representatives on—

10 (1) the costs incurred in implementing this sub-
 11 title during the preceding fiscal year; and

12 (2) the funds required to implement this sub-
 13 title during the current and subsequent fiscal years.

14 **TITLE XXXII—DEFENSE NU-**
 15 **CLEAR FACILITIES SAFETY**
 16 **BOARD**

17 **SEC. 3201. AUTHORIZATION.**

18 There are authorized to be appropriated for fiscal
 19 year 2002, \$18,500,000 for the operation of the Defense
 20 Nuclear Facilities Safety Board under chapter 21 of the
 21 Atomic Energy Act of 1954 (42 U.S.C. 2286 et seq.).

TITLE XXXIII—NATIONAL DEFENSE STOCKPILE

SEC. 3301. AUTHORITY TO DISPOSE OF CERTAIN MATERIALS IN THE NATIONAL DEFENSE STOCKPILE.

(a) DISPOSAL REQUIRED.—Subject to the conditions specified in subsection (b), the President may dispose of obsolete and excess materials currently contained in the National Defense Stockpile provided for in section 4 of the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98c). The materials subject to disposal under this subsection and the quantity of each material authorized to be disposed of by the President are set forth in the following table:

Authorized Stockpile Disposals

Material for disposal	Quantity
Bauxite	40,000 short tons
Chromium Metal	3,512 short tons
Iridium	25,140 troy ounces
Jewel Bearings	30,273,221 pieces
Manganese Ferro HC	209,074 short tons
Palladium	11 troy ounces
Quartz Crystal	216,648 pounds
Tantalum Metal Ingot	120,228 pounds contained
Tantalum Metal Powder	36,020 pounds contained
Thorium Nitrate	600,000 pounds.

(b) MINIMIZATION OF DISRUPTION AND LOSS.—The President may not dispose of materials under subsection (a) to the extent that the disposal will result in—

1 (1) undue disruption of the usual markets of
 2 producers, processors, and consumers of the mate-
 3 rials proposed for disposal; or

4 (2) avoidable loss to the United States.

5 (c) RELATIONSHIP TO OTHER DISPOSAL AUTHOR-
 6 ITY.—The disposal authority provided in subsection (a) is
 7 new disposal authority and is in addition to, and shall not
 8 affect, any other disposal authority provided by law re-
 9 garding the materials specified in such subsection.

10 **SEC. 3302. REVISION OF LIMITATIONS ON REQUIRED DIS-**
 11 **POSALS OF COBALT IN THE NATIONAL DE-**
 12 **FENSE STOCKPILE.**

13 (a) PUBLIC LAW 105–261.—Section 3303 of the
 14 Strom Thurmond National Defense Authorization Act for
 15 Fiscal Year 1999 (112 Stat. 2263; 50 U.S.C. 98d note)
 16 is amended—

17 (1) in subsection (a), by striking “the amount
 18 of—” and inserting “total amounts not less
 19 than—”; and

20 (2) in subsection (b)(2), by striking “receipts in
 21 the amounts specified in subsection (a)” and insert-
 22 ing “receipts in the total amount specified in such
 23 subsection (a)(4)”.

1 (b) PUBLIC LAW 105–85.—Section 3305 of the Na-
 2 tional Defense Authorization Act for Fiscal Year 1998
 3 (111 Stat. 2057; 50 U.S.C. 98d note) is amended—

4 (1) in subsection (a), by striking “amounts
 5 equal to—” and inserting “total amounts not less
 6 than—”; and

7 (2) in subsection (b)(2)—

8 (A) by striking “may not dispose of cobalt
 9 under this section” and inserting “may not,
 10 under this section, dispose of cobalt in the fiscal
 11 year referred to in subsection (a)(5)”; and

12 (B) by striking “receipts in the amounts
 13 specified in subsection (a)” and inserting “re-
 14 cepts during that fiscal year in the total
 15 amount specified in such subsection (a)(5)”.

16 (c) PUBLIC LAW 104–201.—Section 3303 of the Na-
 17 tional Defense Authorization Act for Fiscal Year 1997
 18 (110 Stat. 2855; 50 U.S.C. 98d note) is amended—

19 (1) in subsection (a), by striking “amounts
 20 equal to—” and inserting “total amounts not less
 21 than—”; and

22 (2) in subsection (b)(2)—

23 (A) by striking “may not dispose of mate-
 24 rials under this section” and inserting “may
 25 not, under this section, dispose of materials

1 during the 10-fiscal year period referred to in
 2 subsection (a)(2)”; and

3 (B) by striking “receipts in the amounts
 4 specified in subsection (a)” and inserting “re-
 5 cepts during that period in the total amount
 6 specified in such subsection (a)(2)”.

7 **SEC. 3303. ACCELERATION OF REQUIRED DISPOSAL OF CO-**
 8 **BALT IN THE NATIONAL DEFENSE STOCK-**
 9 **PILE.**

10 Section 3305(a) of the National Defense Authoriza-
 11 tion Act for Fiscal Year 1998 (111 Stat. 2057; 50 U.S.C.
 12 98d note) is amended—

13 (1) in paragraph (1), by striking “2003” and
 14 inserting “2002”;

15 (2) in paragraph (1), by striking “2004” and
 16 inserting “2003”;

17 (3) in paragraph (1), by striking “2005” and
 18 inserting “2004”;

19 (4) in paragraph (1), by striking “2006” and
 20 inserting “2005”; and

21 (5) in paragraph (1), by striking “2007” and
 22 inserting “2006”.

1 **SEC. 3304. REVISION OF RESTRICTION ON DISPOSAL OF**
 2 **MANGANESE FERRO.**

3 Section 3304 of the National Defense Authorization
 4 Act for Fiscal Year 1996 (Public Law 104–106; 110 Stat.
 5 629) is amended—

6 (1) in subsection (a)—

7 (A) by striking “(a) DISPOSAL OF LOWER
 8 GRADE MATERIAL FIRST.—The President” and
 9 inserting “During fiscal year 2002, the Presi-
 10 dent”; and

11 (B) in the first sentence, by striking “,
 12 until completing the disposal of all manganese
 13 ferro in the National Defense Stockpile that
 14 does not meet such classification”; and

15 (2) by striking subsections (b) and (c).

16 **TITLE XXXIV—NAVAL**
 17 **PETROLEUM RESERVES**

18 **SEC. 3401. AUTHORIZATION OF APPROPRIATIONS.**

19 (a) AUTHORIZATION OF APPROPRIATIONS.—There is
 20 hereby authorized to be appropriated to the Secretary of
 21 Energy \$17,371,000 for fiscal year 2002 for the purpose
 22 of carrying out activities under chapter 641 of title 10,
 23 United States Code, relating to the naval petroleum re-
 24 serves (as defined in section 7420(2) of such title).

1 (b) AVAILABILITY.—The amount authorized to be ap-
2 propriated by subsection (a) shall remain available until
3 expended.

Passed the Senate October 2, 2001.

Attest:

Secretary.

107TH CONGRESS
1ST SESSION

S. 1417

AN ACT

To authorize appropriations for fiscal year 2002 for defense activities of the Department of Energy, and for other purposes.