

110TH CONGRESS  
2D SESSION

# H. R. 6232

For the relief of Richard M. Barlow of Bozeman, Montana.

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IN THE HOUSE OF REPRESENTATIVES

JUNE 10, 2008

Mrs. MALONEY of New York introduced the following bill; which was referred to the Committee on the Judiciary

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## A BILL

For the relief of Richard M. Barlow of Bozeman, Montana.

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. RELIEF OF RICHARD M. BARLOW OF BOZEMAN,**  
4 **MONTANA.**

5 (a) FINDINGS.—Congress makes the following find-  
6 ings:

7 (1) Richard Barlow was a counter-proliferation  
8 intelligence officer with expertise in Pakistan nuclear  
9 issues.

10 (2) From 1980–82, Mr. Barlow served as the  
11 action officer for Pakistan proliferation matters at  
12 the Arms Control and Disarmament Agency.

1           (3) In 1985, Mr. Barlow joined the Central In-  
2           telligence Agency, becoming a recognized issue ex-  
3           pert on Pakistan's clandestine nuclear purchasing  
4           networks and its weapons programs.

5           (4) After serving as a Special Agent with the  
6           Customs Service, Mr. Barlow then joined the Office  
7           of the Secretary of Defense starting in 1989, where  
8           he continued to investigate Pakistan's nuclear weap-  
9           ons network headed by A. Q. Khan.

10          (5) Mr. Barlow was instrumental in the 1987  
11          arrest and later conviction of 2 agents in Pakistan's  
12          nuclear weapons development program headed by A.  
13          Q. Khan, for which he received an award for excep-  
14          tional accomplishment from the Director of the Cen-  
15          tral Intelligence Agency and numerous commenda-  
16          tions from senior State Department and law enforce-  
17          ment officials.

18          (6) In addition, Mr. Barlow received a pres-  
19          tigious commendation from the State Department's  
20          Legal Advisor for assistance to President Ronald  
21          Reagan and Secretary of State George P. Schultz  
22          for triggering the Solarz Amendment relating to ter-  
23          mination of military and economic aid to Pakistan  
24          for exporting nuclear weapons technology.

1           (7) In a classified hearing following the arrests  
2 of the Pakistani agents, Mr. Barlow, as the Central  
3 Intelligence Agency's top expert, testified truthfully  
4 to the Subcommittee on Asian Pacific Affairs of the  
5 Committee on International Relations of the House  
6 of Representatives, then known as the House For-  
7 eign Affairs Committee, that the arrested Pakistanis  
8 were agents of the Pakistani government, and re-  
9 vealed that Pakistan had continued to regularly vio-  
10 late United States nuclear export laws.

11           (8) Mr. Barlow's actions revealed that certain  
12 Executive Branch officials had been withholding this  
13 information from the Congressional committees.

14           (9) In 1989, Mr. Barlow joined the Office of  
15 the Secretary of Defense in the Office of Non-pro-  
16 liferation where he continued to investigate Paki-  
17 stani proliferation networks.

18           (10) In April 1989, Mr. Barlow received an  
19 outstanding performance review from his Depart-  
20 ment of Defense supervisors, and in June 1989 he  
21 was promoted.

22           (11) During the spring and early summer of  
23 1989, Mr. Barlow told his supervisors on a number  
24 of occasions that he had serious concerns that Exec-  
25 utive Branch officials were concealing intelligence

1 about Pakistan's nuclear program from Congress  
2 and were obstructing pending criminal investigations  
3 into Pakistan's procurement efforts in order to avoid  
4 triggering the Pressler and Solarz Amendments and  
5 to obtain approval for a proposed \$1,400,000,000  
6 sale of F-16 jets to Pakistan.

7 (12) On August 2, 1989, Mr. Barlow raised  
8 concerns about false testimony given by senior offi-  
9 cials to the Congress on Pakistan's nuclear capabili-  
10 ties to the Subcommittee on Asian Pacific Affairs of  
11 the Committee on International Relations of the  
12 House.

13 (13) On August 4, 1989, several weeks after  
14 being promoted, Richard Barlow was handed a no-  
15 tice of pending termination.

16 (14) On August 8, 1989, Mr. Barlow's security  
17 clearances were suspended for reasons that were  
18 classified and not revealed to him.

19 (15) On August 26, 1989, Mr. Barlow, under  
20 threat of firing, was offered a series of menial, tem-  
21 porary assignments by Department of Defense per-  
22 sonnel and security officials concerned about possible  
23 retaliation against him as a Congressional whistle-  
24 blower by senior officials in the Office of the Sec-  
25 retary of Defense.

1           (16) Mr. Barlow then underwent a 9-month  
2 long security investigation involving numerous alle-  
3 gations levied against him by his superiors in the  
4 Office of Secretary of Defense, all of which were  
5 found to be false.

6           (17) In March of 1990, Mr. Barlow then had  
7 his security clearance restored and remained in a se-  
8 ries of temporary assignments until February 1992,  
9 when he then resigned under duress.

10          (18) At the time of his separation from govern-  
11 ment service, Mr. Barlow had completed 8 years of  
12 government service.

13          (19) Mr. Barlow's temporary loss of his secu-  
14 rity clearance and personnel actions against him  
15 damaged his reputation and left him unable to find  
16 suitable employment inside the Government.

17          (20) For the next 15 years, Mr. Barlow contin-  
18 ued to serve his country as a consultant to the intel-  
19 ligence and law enforcement communities working  
20 on complex counterintelligence and counter-prolifera-  
21 tion operations without the benefits he would have  
22 had if he had continued as a Federal employee.

23          (21) In 1998, a Private Relief Bill (S. 2274,  
24 105th Congress) was introduced to provide com-  
25 pensation to Mr. Barlow. On October 5, 1998, the

1 Senate passed S. Res. 256, which referred the bill to  
2 the Court of Federal Claims instructing the court to  
3 advise the Congress as to “the nature, extent, and  
4 character of the claim for compensation referred to  
5 in such bill as a legal or equitable claim against the  
6 United States or a gratuity”.

7 (22) With Senate Resolution 256, the Senate  
8 recognized the importance of protecting Federal em-  
9 ployees who inform Congress of Executive Branch  
10 distortions of the truth and other wrongdoing.

11 (23) On March 6, 2000, the Government filed  
12 a protective order under the state secrets privilege  
13 for documents requested under discovery by Mr.  
14 Barlow relating to the Pakistan nuclear program.

15 (24) The documents denied under the state se-  
16 cret privilege were documents that Mr. Barlow had  
17 official access to prior to the loss of clearance.

18 (25) The documents denied under the state se-  
19 crets privilege were subpoenaed by Mr. Barlow to  
20 substantiate the allegations he originally made re-  
21 garding his claim of false testimony of Government  
22 officials to Congress on the Pakistan nuclear weap-  
23 ons program and the actions taken against him.

24 (26) The evidence withheld from the Court as  
25 a result of the state secrets privilege included signifi-

1 cant, sworn statements from a number of senior in-  
2 telligence, Department of State, and Department of  
3 Defense officials corroborating Mr. Barlow's charges  
4 of Executive Branch wrongdoing.

5 (27) As a result of the use of the state secrets  
6 privilege, Mr. Barlow and the United States Court  
7 of Federal Claims did not have access to evidence  
8 and information necessary to evaluate the key infor-  
9 mation relating to the merits of Mr. Barlow's case  
10 and accurately report its findings to the Senate.

11 (28) Since Mr. Barlow's separation from gov-  
12 ernment service in 1992, five Senate and five House  
13 committees have intervened in support of Mr. Bar-  
14 low's case on a bipartisan basis, and investigations  
15 by the Central Intelligence Agency, State Depart-  
16 ment Inspectors General, and the Government Ac-  
17 countability Office have corroborated Mr. Barlow's  
18 findings or found that personnel actions were taken  
19 against him in reprisal.

20 (29) Richard Barlow is recognized for his patri-  
21 otism and service to his country.

22 (b) COMPENSATION OF CERTAIN LOSSES.—

23 (1) IN GENERAL.—The Secretary of the Treas-  
24 ury shall pay, out of any money in the Treasury not  
25 otherwise appropriated, to Richard M. Barlow of

1 Bozeman, Montana, the sum of \$1,900,000 for the  
2 losses incurred by Richard M. Barlow relating to  
3 and as a direct consequence of personnel and secu-  
4 rity actions taken by the Department of Defense be-  
5 ginning on August 4th, 1989.

6 (2) NO INFERENCE OF LIABILITY.—Nothing in  
7 this section shall be construed as an inference of li-  
8 ability on the part of the United States.

9 (3) NO AGENTS AND ATTORNEYS FEES.—None  
10 of the payment authorized by this section may be  
11 paid to or received by any agent or attorney for any  
12 services rendered in connection with obtaining such  
13 payment. Any person who violates this subsection  
14 shall be guilty of a misdemeanor and shall be subject  
15 to a fine in the amount provided in title 18, United  
16 States Code.

17 (4) NON-TAXABILITY OF PAYMENT.—The pay-  
18 ment authorized by this section is in partial reim-  
19 bursement for losses incurred by Richard Barlow as  
20 a result of the personnel actions taken by the De-  
21 partment of Defense and is not subject to Federal,  
22 State, or local income taxation.

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