

Union Calendar No. 412

106TH CONGRESS
2D SESSION

H. R. 3906

[Report No. 106–696, Parts I and II]

To ensure that the Department of Energy has appropriate mechanisms to independently assess the effectiveness of its policy and site performance in the areas of safeguards and security and cyber security.

IN THE HOUSE OF REPRESENTATIVES

MARCH 14, 2000

Mr. BLILEY (for himself, Mr. UPTON, Mr. BARTON of Texas, and Mr. BURR of North Carolina) introduced the following bill; which was referred to the Committee on Commerce, and in addition to the Committees on Armed Services, and Science, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

JUNE 23, 2000

Reported from the Committee on Commerce with an amendment

[Strike out all after the enacting clause and insert the part printed in *italic*]

JUNE 23, 2000

Referral to the Committee on Armed Services extended for a period ending not later than July 12, 2000

JUNE 23, 2000

Referral to the Committee on Science extended for a period ending not later than June 23, 2000

JUNE 23, 2000

The Committee on Science discharged

JULY 12, 2000

Additional sponsor: Mr. PICKERING

JULY 12, 2000

Reported from the Committee on the Armed Services with amendments, com-

mitted to the Committee of the Whole House on the State of the Union,
and ordered to be printed

[Strike out all after the enacting clause and insert the part printed in boldface roman]

[For text of introduced bill, see copy of bill as introduced on March 14, 2000]

A BILL

To ensure that the Department of Energy has appropriate mechanisms to independently assess the effectiveness of its policy and site performance in the areas of safeguards and security and cyber security.

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 *Security Oversight Improvement Act of 2000”.*

6 **SEC. 2. FINDINGS.**

7 *The Congress finds that—*

8 *(1) internal Department of Energy oversight of*
9 *safeguards and security has suffered over the years*
10 *from inconsistent application, lack of senior manage-*
11 *ment attention, reduced resources, and overlapping*
12 *and conflicting roles and responsibilities among var-*
13 *ious Department offices;*

14 *(2) the Department of Energy is in need of a*
15 *statutorily-based independent security oversight office*
16 *with the responsibility to regularly assess the effective-*

1 ness of the Department's policy and site performance
2 in the area of safeguards and security, including com-
3 puter security, and report to the Secretary on such
4 findings annually;

5 (3) the Department of Energy's oversight of secu-
6 rity at its sites should be streamlined to reduce over-
7 lapping and redundant oversight, to improve account-
8 ability, and to ensure greater consistency in applica-
9 tion, findings, and reporting of results; and

10 (4) it is appropriate to establish a single, inde-
11 pendent security oversight office within the Depart-
12 ment of Energy, without prejudice to the continued
13 compliance assurance activities conducted at the De-
14 partment site level.

15 **SEC. 3. OFFICE OF INDEPENDENT SECURITY OVERSIGHT.**

16 (a) *OFFICE.*—The Secretary of Energy shall maintain
17 an Office of Independent Security Oversight, which shall
18 be headed by a Director appointed by the Secretary without
19 regard to political affiliation and solely on the basis of in-
20 tegrity and demonstrated ability in the oversight and eval-
21 uation of security for nuclear and classified programs. The
22 Director shall report directly to and be under the general
23 supervision of the Secretary, but the Director shall not re-
24 port to or be subject to supervision by any other office or
25 officer of the Department of Energy. The Secretary shall

1 not prevent, prohibit, or delay the Director from initiating,
2 carrying out, or completing any inspection, evaluation, or
3 report undertaken pursuant to this Act. Such Office shall
4 be responsible for carrying out the missions and functions
5 described in subsections (c) and (d), but the Office shall
6 have no authority to establish or require the implementa-
7 tion of any change to the policies, programs, or practices
8 of the Department of Energy.

9 (b) *EXPERTS AND CONSULTANTS.*—In addition to em-
10 ployees of the Department of Energy, the Director is author-
11 ized to utilize such experts and consultants as the Director
12 deems appropriate. For such purposes, the Director may
13 procure temporary and intermittent services under section
14 3109(b) of title 5, United States Code. Upon request of the
15 Director, the head of any Federal agency is authorized to
16 detail, on a reimbursable basis, any of the personnel of such
17 agency to the Director to assist the Director in carrying
18 out functions under this section.

19 (c) *MISSION.*—The Office of Independent Security
20 Oversight shall be responsible for the independent evalua-
21 tion of the effectiveness of safeguards and security (includ-
22 ing computer security) policies, programs, and practices
23 throughout the Department of Energy, including the Na-
24 tional Nuclear Security Administration. The Office shall
25 identify security weaknesses, make recommendations to the

1 *Secretary for improvement, and review the effectiveness and*
2 *timeliness of corrective actions taken by the Department.*

3 *(d) FUNCTIONS.—The Office of Independent Security*
4 *Oversight shall perform the following functions:*

5 *(1) Conduct regular evaluations of safeguards*
6 *and security programs at Department of Energy sites*
7 *that have significant amounts of special nuclear ma-*
8 *terial, classified information, or other security inter-*
9 *ests. The scope of the evaluations shall include all as-*
10 *pects of safeguards and security, including physical*
11 *protection of special nuclear material, accountability*
12 *of special nuclear material, protection of classified*
13 *and sensitive information, classified and unclassified*
14 *computer security, personnel security, and inter-*
15 *actions with foreign nationals.*

16 *(2) Issue reports to the Secretary that clearly*
17 *identify specific findings relating to security weak-*
18 *nesses, and make recommendations for improvement.*

19 *(3) Perform timely followup reviews to ensure*
20 *that any corrective actions implemented by the De-*
21 *partment are effective.*

22 *(4) Evaluate and assess Department of Energy*
23 *policies related to safeguards and security.*

1 (5) *Develop recommendations and opportunities*
 2 *for improving safeguards and security policies, pro-*
 3 *grams, and practices for submittal to the Secretary.*

4 (6) *Any other function the Secretary considers*
 5 *appropriate and consistent with the mission described*
 6 *in subsection (c).*

7 (e) *TIMING OF REGULAR EVALUATIONS.—*

8 (1) *GENERAL RULE.—Except as provided in*
 9 *paragraph (2), evaluations conducted under sub-*
 10 *section (d)(1) shall occur at least once every 2 years.*

11 (2) *COMPUTER SECURITY EVALUATIONS.—Eval-*
 12 *uations conducted under subsection (d)(1) with re-*
 13 *spect to classified and unclassified computer security*
 14 *shall occur at least once every 18 months.*

15 (f) *ACCESS TO INFORMATION.—In carrying out this*
 16 *section, the Director shall have access to all records and per-*
 17 *sonnel of the Department concerning its safeguards and se-*
 18 *curity programs, including classified and unclassified com-*
 19 *puter security programs.*

20 **SEC. 4. REPORTS.**

21 (a) *REPORT BY OFFICE.—The Office of Independent*
 22 *Security Oversight shall, before February 15 of each year,*
 23 *transmit to the Secretary of Energy an unclassified report,*
 24 *with a classified appendix if requested or necessary, sum-*

1 marizing the activities of the Office during the immediately
2 preceding calendar year. Such report shall include—

3 (1) a summary of each significant report made
4 to the Secretary pursuant to this Act during the re-
5 porting period, including a description of key security
6 findings contained in those reports;

7 (2) the adequacy of corrective actions, if any,
8 taken by the Department to address significant prob-
9 lems and deficiencies;

10 (3) an identification of each significant problem
11 or deficiency described in previous annual reports on
12 which corrective action has not been effectively com-
13 pleted;

14 (4) a description and explanation of the reasons
15 for any significant revisions to security policy deci-
16 sions made during the reporting period; and

17 (5) a description of any significant security pol-
18 icy decision with which the Director is in disagree-
19 ment, along with an explanation of the reasons for
20 disagreement.

21 (b) *REPORT BY SECRETARY.*—The Secretary of Energy
22 shall, before March 15 of each year, transmit to the appro-
23 priate committees of Congress, without alteration, the Of-
24 fice’s annual report submitted under subsection (a), along
25 with an unclassified report, with a classified appendix if

1 requested or necessary, summarizing the Secretary's re-
2 sponse thereto. Such report from the Secretary shall
3 include—

4 (1) a description of the Secretary's response to
5 each significant report and security finding made to
6 the Secretary pursuant to this Act during the report-
7 ing period;

8 (2) an explanation of the reasons for any failure
9 on the part of the Department of Energy to remedy
10 security findings identified by the Office in the cur-
11 rent annual report and previous annual reports; and

12 (3) to the extent relevant, an explanation of how
13 the President's budget submissions will impact the
14 ability of the Department to remedy unresolved secu-
15 rity findings identified by the Office in its annual re-
16 ports.

17 (c) *PUBLIC AVAILABILITY.*—Within 60 days after the
18 transmission of the annual reports to the Congress under
19 subsection (b), the Secretary of Energy shall make copies
20 of the unclassified portions of such reports available to the
21 public.

22 (d) *SPECIAL REPORTS.*—The Director of the Office of
23 Independent Security Oversight shall report immediately to
24 the Secretary of Energy whenever the Director becomes
25 aware of deficiencies relating to the security programs,

1 *practices, or operations of the Department of Energy that*
 2 *require an immediate response. The Secretary shall, within*
 3 *7 calendar days after receiving a report under this sub-*
 4 *section, notify the appropriate committees of Congress in*
 5 *writing and explain the corrective actions taken to address*
 6 *such deficiencies.*

7 *(e) CONGRESSIONAL TESTIMONY AND BRIEFINGS.—*
 8 *The Director of the Office of Independent Security Over-*
 9 *sight, whenever called to testify before any Committee of*
 10 *Congress or to brief its Members or staff, shall provide the*
 11 *Secretary of Energy with advance notice of the subject mat-*
 12 *ter of that testimony or briefing, but shall provide the re-*
 13 *quested information to the Congress without any further re-*
 14 *view, clearance, or approval by any other official in the*
 15 *Executive Branch.*

16 **SECTION 1. SHORT TITLE.**

17 **This Act may be cited as the “National Nu-**
 18 **clear Security Administration Security Over-**
 19 **sight Improvement Act of 2000”.**

20 **SEC. 2. OFFICE OF INDEPENDENT SECURITY OVERSIGHT.**

21 **(a) OFFICE REQUIRED.—**Subtitle B of the
 22 **National Nuclear Security Administration Act**
 23 **(title XXXII of Public Law 106–65; 113 Stat.**
 24 **953; 50 U.S.C. 2401 et seq.) is amended by in-**
 25 **serting at the end the following new section:**

1 “SEC. 3237. OFFICE OF INDEPENDENT SECURITY OVER-
2 SIGHT.

3 “(a) **OFFICE REQUIRED.**—The Administrator
4 shall maintain an Office of Independent Secu-
5 rity Oversight, which shall be headed by a Di-
6 rector appointed by the Administrator with-
7 out regard to political affiliation and solely on
8 the basis of integrity and demonstrated abil-
9 ity in the oversight and evaluation of security
10 for nuclear and classified programs. The Di-
11 rector shall report directly to and be under
12 the general supervision of the Administrator,
13 but the Director shall not be subject to super-
14 vision by any other office or officer of the Ad-
15 ministration or of the Department of Energy.
16 Neither the Secretary of Energy nor the Ad-
17 ministrator shall prevent, prohibit, or delay
18 the Director from initiating, carrying out, or
19 completing any inspection, evaluation, or re-
20 port undertaken pursuant to this section or
21 from submitting to the Congress any such re-
22 port. Such Office shall be responsible for car-
23 rying out the missions and functions de-
24 scribed in subsections (c) and (d), but the Of-
25 fice shall have no authority to establish or re-
26 quire the implementation of any change to

1 the policies, programs, or practices of the Ad-
2 ministration.

3 “(b) EXPERTS AND CONSULTANTS.—In addi-
4 tion to employees of the Administration, the
5 Director is authorized to utilize such experts
6 and consultants as the Director deems appro-
7 priate. For such purposes, the Director may
8 procure temporary and intermittent services
9 under section 3109(b) of title 5, United States
10 Code. Upon request of the Director, the head
11 of any Federal agency is authorized to detail,
12 on a reimbursable basis, any of the personnel
13 of such agency to the Director to assist the Di-
14 rector in carrying out functions under this
15 section.

16 “(c) MISSION.—The Office of Independent
17 Security Oversight shall be responsible for
18 the independent evaluation of the effective-
19 ness of safeguards and security (including
20 computer security) policies, programs, and
21 practices of the Administration. The Office
22 shall identify security weaknesses, make rec-
23 ommendations to the Administrator for im-
24 provement, and review the effectiveness and

1 **timeliness of corrective actions taken by the**
2 **Administration.**

3 **“(d) FUNCTIONS.—The Office of Inde-**
4 **pendent Security Oversight shall perform the**
5 **following functions:**

6 **“(1) Conduct regular evaluations of**
7 **safeguards and security programs at Ad-**
8 **ministration sites that have significant**
9 **amounts of special nuclear material, clas-**
10 **sified information, or other security in-**
11 **terests. The scope of the evaluations shall**
12 **include all aspects of safeguards and se-**
13 **curity, including physical protection of**
14 **special nuclear material, accountability**
15 **of special nuclear material, protection of**
16 **classified and sensitive information, clas-**
17 **sified and unclassified computer security,**
18 **personnel security, and interactions with**
19 **foreign nationals.**

20 **“(2) Issue reports to the Adminis-**
21 **trator that clearly identify specific find-**
22 **ings relating to security weaknesses, and**
23 **make recommendations for improvement.**

24 **“(3) Perform timely followup reviews**
25 **to assess the effectiveness of any correc-**

1 **tive actions implemented by the Adminis-**
2 **tration.**

3 **“(4) Evaluate and assess Administra-**
4 **tion policies related to safeguards and se-**
5 **curity.**

6 **“(5) Develop recommendations and**
7 **opportunities for improving safeguards**
8 **and security policies, programs, and**
9 **practices for submittal to the Adminis-**
10 **trator.**

11 **“(6) Any other function the Adminis-**
12 **trator considers appropriate and con-**
13 **sistent with the mission described in sub-**
14 **section (c).**

15 **“(e) TIMING OF REGULAR EVALUATIONS.—**

16 **“(1) GENERAL RULE.—Except as pro-**
17 **vided in paragraph (2), evaluations con-**
18 **ducted under subsection (d)(1) shall**
19 **occur at least once every two years.**

20 **“(2) COMPUTER SECURITY EVALUA-**
21 **TIONS.—Evaluations conducted under**
22 **subsection (d)(1) with respect to classi-**
23 **fied and unclassified computer security**
24 **shall occur at least once every 18 months.**

1 “(f) ACCESS TO INFORMATION.—In carrying
2 out this section, the Director shall have access
3 to all records and personnel of the Adminis-
4 tration concerning its safeguards and secu-
5 rity programs, including classified and un-
6 classified computer security programs.

7 “(g) REPORT BY OFFICE.—The Office of
8 Independent Security Oversight shall, before
9 February 15 of each year, transmit to the Ad-
10 ministrator and the Secretary an unclassified
11 report, with a classified appendix if requested
12 or necessary, summarizing the activities of
13 the Office during the immediately preceding
14 calendar year. Such report shall include—

15 “(1) a summary of each significant re-
16 port made to the Administrator pursuant
17 to this section during the reporting pe-
18 riod, including a description of key secu-
19 rity findings contained in those reports;

20 “(2) the adequacy of corrective ac-
21 tions, if any, taken by the Administration
22 to address significant problems and defi-
23 ciencies;

24 “(3) an identification of each signifi-
25 cant problem or deficiency described in

1 previous annual reports on which correc-
2 tive action has not been effectively com-
3 pleted; and

4 “(4) a description of any significant
5 security policy decision with which the
6 Director is in disagreement, along with
7 an explanation of the reasons for dis-
8 agreement.

9 “(h) REPORT BY ADMINISTRATOR.—The Ad-
10 ministrator shall, before March 15 of each
11 year, transmit to the appropriate committees
12 of Congress, without alteration, the Office’s
13 annual report submitted under subsection (g),
14 along with an unclassified report, with a clas-
15 sified appendix if requested or necessary,
16 summarizing the Administrator’s response
17 thereto. Such report from the Administrator
18 shall include—

19 “(1) a description of the Administra-
20 tor’s response to each significant report
21 and security finding made to the Admin-
22 istrator pursuant to this section during
23 the reporting period;

24 “(2) an explanation of the reasons for
25 any failure on the part of the Administra-

1 tion to remedy security findings identi-
2 fied by the Office in the current annual
3 report and previous annual reports; and

4 “(3) to the extent relevant, an expla-
5 nation of how the President’s budget sub-
6 missions will impact the ability of the Ad-
7 ministration to remedy unresolved secu-
8 rity findings identified by the Office in
9 its annual reports.

10 “(i) PUBLIC AVAILABILITY.—Within 60 days
11 after the transmission of the annual reports
12 to the Congress under subsection (h), the Ad-
13 ministrator shall make copies of the unclassi-
14 fied portions of such reports available to the
15 public.

16 “(j) SPECIAL REPORTS.—The Director of the
17 Office of Independent Security Oversight
18 shall report immediately to the Administrator
19 whenever the Director becomes aware of defi-
20 ciencies relating to the security programs,
21 practices, or operations of the Administration
22 that require an immediate response. The Ad-
23 ministrator shall, within seven calendar days
24 after receiving a report under this subsection,
25 notify the appropriate committees of Con-

1 **gress in writing and explain the corrective ac-**
2 **tions taken to address such deficiencies.**

3 **“(k) CONGRESSIONAL TESTIMONY AND BRIEF-**
4 **INGS.—The Director of the Office of Inde-**
5 **pendent Security Oversight, whenever called**
6 **to testify before a committee of Congress or**
7 **to brief any Member of Congress or congres-**
8 **sional staff, shall provide the Administrator**
9 **with advance notice of the subject matter of**
10 **that testimony or briefing, but shall provide**
11 **the requested information to the Congress**
12 **without any further review, clearance, or ap-**
13 **proval by any other official in the Executive**
14 **Branch.”.**

15 **(b) CLERICAL AMENDMENT.—The table of**
16 **contents at the beginning of such Act is**
17 **amended by inserting after the item relating**
18 **to section 3236 the following new item:**

“Sec. 3237. Office of Independent Security Oversight.”.

Amend the title so as to read: “A bill to ensure that the National Nuclear Security Administration has appropriate mechanisms to independently assess the effectiveness of its policy and site performance in the areas of safeguards and security and cyber security.”.

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