

107TH CONGRESS
2D SESSION

S. 2517

AN ACT

To authorize appropriations for fiscal year 2003 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 2003”.

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 management.
- Sec. 3103. Other defense activities.
- Sec. 3104. Defense environmental management privatization.
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Subtitle B—Recurring General Provisions

- Sec. 3121. Reprogramming.
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- 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.
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Subtitle C—Program Authorizations, Restrictions, and Limitations

- Sec. 3131. Availability of funds for environmental management cleanup reform.
- Sec. 3132. Robust Nuclear Earth Penetrator.
- Sec. 3133. Database to track notification and resolution phases of Significant Finding Investigations.
- Sec. 3134. Requirements for specific request for new or modified nuclear weapons.
- Sec. 3135. Requirement for authorization by law for funds obligated or expended for Department of Energy national security activities.
- Sec. 3136. Limitation on availability of funds for program to eliminate weapons grade plutonium production in Russia.

Subtitle D—Proliferation Matters

- Sec. 3151. Administration of program to eliminate weapons grade plutonium production in Russia.
- Sec. 3152. Repeal of requirement for reports on obligation of funds for programs on fissile materials in Russia.
- Sec. 3153. Expansion of annual reports on status of nuclear materials protection, control, and accounting programs.

- Sec. 3154. Testing of preparedness for emergencies involving nuclear, radiological, chemical, or biological weapons.
- Sec. 3155. Program on research and technology for protection from nuclear or radiological terrorism.
- Sec. 3156. Expansion of international materials protection, control, and accounting program.
- Sec. 3157. Accelerated disposition of highly enriched uranium and plutonium.
- Sec. 3158. Disposition of plutonium in Russia.
- Sec. 3159. Strengthened international security for nuclear materials and safety and security of nuclear operations.
- Sec. 3160. Export control programs.
- Sec. 3161. Improvements to nuclear materials protection, control, and accounting program of the Russian Federation.
- Sec. 3162. Comprehensive annual report to Congress on coordination and integration of all United States nonproliferation activities.
- Sec. 3163. Utilization of Department of Energy national laboratories and sites in support of counterterrorism and homeland security activities.

Subtitle E—Other Matters

- Sec. 3171. Indemnification of Department of Energy contractors.
- Sec. 3172. Worker health and safety rules for Department of Energy facilities.
- Sec. 3173. One-year extension of authority of Department of Energy to pay voluntary separation incentive payments.
- Sec. 3174. Support for public education in the vicinity of Los Alamos National Laboratory, New Mexico.

Subtitle F—Disposition of Weapons-Usable Plutonium at Savannah River, South Carolina

- Sec. 3181. Findings.
- Sec. 3182. Disposition of weapons-usable plutonium at Savannah River Site.
- Sec. 3183. Study of facilities for storage of plutonium and plutonium materials at Savannah River Site.

TITLE XXXII—DEFENSE NUCLEAR FACILITIES SAFETY BOARD

- Sec. 3201. Authorization.
- Sec. 3202. Authorization of appropriations for the formerly used sites remedial action program of the Corps of Engineers.

1 SEC. 3. CONGRESSIONAL DEFENSE COMMITTEES DEFINED.

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

- 4 (1) the Committee on Armed Services and the
- 5 Committee on Appropriations of the Senate; and

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

4 **TITLE XXXI—DEPARTMENT OF**
 5 **ENERGY NATIONAL SECURITY**
 6 **PROGRAMS**

7 **Subtitle A—National Security**
 8 **Programs Authorizations**

9 **SEC. 3101. NATIONAL NUCLEAR SECURITY ADMINISTRA-**
 10 **TION.**

11 Funds are hereby authorized to be appropriated to
 12 the Department of Energy for fiscal year 2003 for the
 13 activities of the National Nuclear Security Administration
 14 in carrying out programs necessary for national security
 15 in the amount of \$8,160,043,000, to be allocated as fol-
 16 lows:

17 (1) WEAPONS ACTIVITIES.—For weapons activi-
 18 ties, \$5,988,188,000, to be allocated as follows:

19 (A) For directed stockpile work,
 20 \$1,218,967,000.

21 (B) For campaigns, \$2,090,528,000, to be
 22 allocated as follows:

23 (i) For operation and maintenance,
 24 \$1,740,983,000.

(ii) For construction, \$349,545,000,
to be allocated as follows:

Project 01–D–101, distributed
information systems laboratory,
Sandia National Laboratories, Liver-
more, California, \$13,305,000.

Project 00–D–103, terascale sim-
ulation facility, Lawrence Livermore
National Laboratory, Livermore, Cali-
fornia, \$35,030,000.

Project 00–D–107, joint com-
putational engineering laboratory,
Sandia National Laboratories, Albu-
querque, New Mexico, \$7,000,000.

Project 98–D–125, tritium ex-
traction facility, Savannah River
Plant, Aiken, South Carolina,
\$70,165,000.

Project 96–D–111, national igni-
tion facility (NIF), Lawrence Liver-
more National Laboratory, Livermore,
California, \$224,045,000.

(C) For readiness in technical base and fa-
cilities, \$1,735,129,000, to be allocated as fol-
lows:

1 (i) For operation and maintenance,
 2 \$1,464,783,000.

3 (ii) For plant projects (including
 4 maintenance, restoration, planning, con-
 5 struction, acquisition, modification of fa-
 6 cilities, and the continuation of projects
 7 authorized in prior years, and land acquisi-
 8 tion related thereto), \$270,346,000, to be
 9 allocated as follows:

10 Project 03–D–101, Sandia un-
 11 derground reactor facility (SURF),
 12 Sandia National Laboratory, Liver-
 13 more, California, \$2,000,000.

14 Project 03–D–103, project engi-
 15 neering and design (PED), various lo-
 16 cations, \$17,839,000.

17 Project 03–D–121, gas transfer
 18 capacity expansion, Kansas City
 19 Plant, Kansas City, Missouri,
 20 \$4,000,000.

21 Project 03–D–122, purification
 22 prototype facility, Y–12 Plant, Oak
 23 Ridge, Tennessee, \$20,800,000.

24 Project 03–D–123, special nu-
 25 clear material component requalifica-

1 tion facility, Pantex Plant, Amarillo,
2 Texas, \$3,000,000

3 Project 02–D–103, project engi-
4 neering and design (PED), various lo-
5 cations, \$24,945,000.

6 Project 02–D–105, engineering
7 technology complex upgrade, Law-
8 rence Livermore National Laboratory,
9 Livermore, California, \$10,000,000.

10 Project 02–D–107, electrical
11 power systems safety communications
12 and bus upgrades, Nevada Test Site,
13 Nevada, \$7,500,000.

14 Project 01–D–103, project engi-
15 neering and design (PED), various lo-
16 cations, \$6,164,000.

17 Project 01–D–107, Atlas reloca-
18 tion, Nevada Test Site, Nevada,
19 \$4,123,000.

20 Project 01–D–108, microsystems
21 and engineering sciences applications
22 (MESA), Sandia National Labora-
23 tories, Albuquerque, New Mexico,
24 \$75,000,000.

1 Project 01–D–124, HEU storage
 2 facility, Y–12 Plant, Oak Ridge, Ten-
 3 nessee, \$25,000,000.

4 Project 01–D–126, weapons eval-
 5 uation test laboratory, Pantex Plant,
 6 Amarillo, Texas, \$8,650,000.

7 Project 01–D–800, sensitive com-
 8 partmented information facility, Law-
 9 rence Livermore National Laboratory,
 10 Livermore, California, \$9,611,000.

11 Project 99–D–103, isotope
 12 sciences facilities, Lawrence Liver-
 13 more National Laboratory, Livermore,
 14 California, \$4,011,000.

15 Project 99–D–104, protection of
 16 real property (roof reconstruction,
 17 phase II), Lawrence Livermore Na-
 18 tional Laboratory, Livermore, Cali-
 19 fornia, \$5,915,000.

20 Project 99–D–127, stockpile
 21 management restructuring initiative,
 22 Kansas City Plant, Kansas City, Mis-
 23 souri, \$29,900,000.

24 Project 99–D–128, stockpile
 25 management restructuring initiative,

1 Pantex Plant, Amarillo, Texas,
2 \$407,000.

3 Project 98–D–123, stockpile
4 management restructuring initiative,
5 tritium facility modernization and
6 consolidation, Savannah River Plant,
7 Aiken, South Carolina, \$10,481,000.

8 Project 96–D–102, stockpile
9 stewardship facilities revitalization,
10 Phase VI, various locations,
11 \$1,000,000.

12 (C) For secure transportation asset,
13 \$157,083,000, to be allocated as follows:

14 (i) For operation and maintenance,
15 \$102,578,000.

16 (ii) For program direction,
17 \$54,505,000.

18 (D) For safeguards and security,
19 \$574,954,000, to be allocated as follows:

20 (i) For operation and maintenance,
21 \$566,054,000.

22 (ii) For plant projects (including
23 maintenance, restoration, planning, con-
24 struction, acquisition, modification of fa-
25 cilities, and the continuation of projects

authorized in prior years, and land acquisition related thereto), \$8,900,000, to be allocated as follows:

Project 99–D–132, stockpile management restructuring initiative, nuclear material safeguards and security upgrades project, Los Alamos National Laboratory, Los Alamos, New Mexico, \$8,900,000.

(E) For facilities and infrastructure, \$242,512,000.

(2) DEFENSE NUCLEAR NONPROLIFERATION.—

For defense nuclear nonproliferation activities, \$1,129,130,000, to be allocated as follows:

(A) For operation and maintenance, \$1,037,130,000, to be allocated as follows:

(i) For nonproliferation and verification research and development, \$298,907,000.

(ii) For nonproliferation programs, \$446,223,000.

(iii) For fissile materials, \$292,000,000.

(B) For plant projects (including maintenance, restoration, planning, construction, ac-

1 quisition, modification of facilities, and the con-
 2 tinuation of projects authorized in prior years,
 3 and land acquisition related thereto),
 4 \$156,000,000, to be allocated as follows:

5 Project 01–D–407, highly enriched
 6 uranium blend-down, Savannah River Site,
 7 Aiken, South Carolina, \$30,000,000.

8 Project 99–D–141, pit disassembly
 9 and conversion facility, Savannah River
 10 Site, Aiken, South Carolina, \$33,000,000.

11 Project 99–D–143, mixed oxide fuel
 12 fabrication facility, Savannah River Site,
 13 Aiken, South Carolina, \$93,000,000.

14 (3) NAVAL REACTORS.—For naval reactors,
 15 \$707,020,000, to be allocated as follows:

16 (A) For naval reactors development,
 17 \$682,590,000, to be allocated as follows:

18 (i) For operation and maintenance,
 19 \$671,290,000.

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), \$11,300,000, to be allocated as follows:

Project 03–D–201, cleanroom technology facility, Bettis Atomic Power Laboratory, West Mifflin, Pennsylvania, \$7,200,000.

Project 01–D–200, major office replacement building, Schenectady, New York, \$2,100,000.

Project 90–N–102, expended core facility dry cell project, Naval Reactors Facility, Idaho, \$2,000,000.

(B) For program direction, \$24,430,000.

(4) OFFICE OF ADMINISTRATOR FOR NUCLEAR SECURITY.—For the Office of the Administrator for Nuclear Security, and for program direction for the National Nuclear Security Administration (other than for naval reactors and secure transportation asset), \$335,705,000.

SEC. 3102. DEFENSE ENVIRONMENTAL MANAGEMENT.

Funds are hereby authorized to be appropriated to the Department of Energy for fiscal year 2003 for environmental management activities in carrying out programs necessary for national security in the amount of \$6,710,774,000, to be allocated as follows:

1 (1) CLOSURE PROJECTS.—For closure projects
2 carried out in accordance with section 3143 of the
3 National Defense Authorization Act for Fiscal Year
4 1997 (Public Law 104–201; 110 Stat. 2836; 42
5 U.S.C. 7277n), \$1,109,314,000.

6 (2) SITE/PROJECT COMPLETION.—For site com-
7 pletion and project completion in carrying out envi-
8 ronmental management activities necessary for na-
9 tional security programs, \$793,950,000, to be allo-
10 cated as follows:

11 (A) For operation and maintenance,
12 \$779,706,000.

13 (B) For plant projects (including mainte-
14 nance, restoration, planning, construction, ac-
15 quisition, modification of facilities, and the con-
16 tinuation of projects authorized in prior years,
17 and land acquisition related thereto),
18 \$14,244,000, to be allocated as follows:

19 Project 02–D–402, Intec cathodic
20 protection system expansion, Idaho Na-
21 tional Engineering and Environmental
22 Laboratory, Idaho Falls, Idaho,
23 \$1,119,000.

1 Project 02–D–420, plutonium sta-
 2 bilization and packaging, Savannah River
 3 Site, Aiken, South Carolina, \$2,000,000.

4 Project 01–D–414, project engineer-
 5 ing and design (PED), various locations,
 6 \$5,125,000.

7 Project 86–D–103, decontamination
 8 and waste treatment facility, Lawrence
 9 Livermore National Laboratory, Liver-
 10 more, California, \$6,000,000.

11 (3) POST-2006 COMPLETION.—For post-2006
 12 completion in carrying out environmental restoration
 13 and waste management activities necessary for na-
 14 tional security programs, \$2,617,199,000, to be allo-
 15 cated as follows:

16 (A) For operation and maintenance,
 17 \$1,704,341,000.

18 (B) For plant projects (including mainte-
 19 nance, restoration, planning, construction, ac-
 20 quisition, modification of facilities, and the con-
 21 tinuation of projects authorized in prior years,
 22 and land acquisition related thereto),
 23 \$14,870,000, to be allocated as follows:

24 Project 93–D–187, high-level waste
 25 removal from filled waste tanks, Savannah

1 River Site, Aiken, South Carolina,
2 \$14,870,000.

3 (C) For the Office of River Protection in
4 carrying out environmental restoration and
5 waste management activities necessary for na-
6 tional security programs, \$897,988,000, to be
7 allocated as follows:

8 (i) For operation and maintenance,
9 \$226,256,000.

10 (ii) For plant projects (including
11 maintenance, restoration, planning, con-
12 struction, acquisition, modification of fa-
13 cilities, and the continuation of projects
14 authorized in prior years, and land acquisi-
15 tion related thereto), \$671,732,000, to be
16 allocated as follows:

17 Project 03-D-403, immobilized
18 high-level waste interim storage facil-
19 ity, Richland, Washington,
20 \$6,363,000.

21 Project 01-D-416, waste treat-
22 ment and immobilization plant, Rich-
23 land, Washington, \$619,000,000.

1 Project 97–D–402, tank farm
2 restoration and safe operations, Rich-
3 land, Washington, \$25,424,000.

4 Project 94–D–407, initial tank
5 retrieval systems, Richland, Wash-
6 ington, \$20,945,000.

7 (4) SCIENCE AND TECHNOLOGY DEVELOP-
8 MENT.—For science and technology development in
9 carrying out environmental management activities
10 necessary for national security programs,
11 \$92,000,000.

12 (5) EXCESS FACILITIES.—For excess facilities
13 in carrying out environmental management activities
14 necessary for national security programs,
15 \$1,300,000.

16 (6) SAFEGUARDS AND SECURITY.—For safe-
17 guards and security in carrying out environmental
18 management activities necessary for national secu-
19 rity programs, \$278,260,000.

20 (7) URANIUM ENRICHMENT DECONTAMINATION
21 AND DECOMMISSIONING FUND.—For contribution to
22 the Uranium Enrichment Decontamination and De-
23 commissioning Fund under chapter 28 of the Atomic
24 Energy Act of 1954 (42 U.S.C. 2297g et seq.),
25 \$441,000,000.

1 (8) ENVIRONMENTAL MANAGEMENT CLEANUP
2 REFORM.—For accelerated environmental restoration
3 and waste management activities, \$1,000,000,000.

4 (9) PROGRAM DIRECTION.—For program direc-
5 tion in carrying out environmental restoration and
6 waste management activities necessary for national
7 security programs, \$396,098,000.

8 **SEC. 3103. OTHER DEFENSE ACTIVITIES.**

9 Funds are hereby authorized to be appropriated to
10 the Department of Energy for fiscal year 2003 for other
11 defense activities in carrying out programs necessary for
12 national security in the amount of \$489,883,000, to be
13 allocated as follows:

14 (1) INTELLIGENCE.—For intelligence,
15 \$43,559,000.

16 (2) COUNTERINTELLIGENCE.—For counter-
17 intelligence, \$48,083,000.

18 (3) OFFICE OF SECURITY.—For the Office of
19 Security for security, \$252,218,000, to be allocated
20 as follows:

21 (A) For nuclear safeguards and security,
22 \$156,102,000.

23 (B) For security investigations,
24 \$45,870,000.

25 (C) For program direction, \$50,246,000.

1 (4) INDEPENDENT OVERSIGHT AND PERFORM-
 2 ANCE ASSURANCE.—For independent oversight and
 3 performance assurance, \$22,615,000.

4 (5) OFFICE OF ENVIRONMENT, SAFETY, AND
 5 HEALTH.—For the Office of Environment, Safety,
 6 and Health, \$104,910,000, to be allocated as fol-
 7 lows:

8 (A) For environment, safety, and health
 9 (defense), \$86,892,000.

10 (B) For program direction, \$18,018,000.

11 (6) WORKER AND COMMUNITY TRANSITION AS-
 12 SISTANCE.—For worker and community transition
 13 assistance, \$25,774,000, to be allocated as follows:

14 (A) For worker and community transition,
 15 \$22,965,000.

16 (B) For program direction, \$2,809,000.

17 (7) OFFICE OF HEARINGS AND APPEALS.—For
 18 the Office of Hearings and Appeals, \$3,136,000.

19 **SEC. 3104. DEFENSE ENVIRONMENTAL MANAGEMENT PRI-**
 20 **VATIZATION.**

21 Funds are hereby authorized to be appropriated to
 22 the Department of Energy for fiscal year 2003 for privat-
 23 ization initiatives in carrying out environmental restora-
 24 tion and waste management activities necessary for na-

3 Project 98-PVT-2, spent nuclear fuel dry stor-
4 age, Idaho Falls, Idaho, \$53,399,000.

5 Project 97-PVT-2, advanced mixed waste
6 treatment project, Idaho Falls, Idaho, \$105,000,000.

8 Funds are hereby authorized to be appropriated to
9 the Department of Energy for fiscal year 2003 for pay-
10 ment to the Nuclear Waste Fund established in section
11 302(c) of the Nuclear Waste Policy Act of 1982 (42
12 U.S.C. 10222(c)) in the amount of \$215,000,000.

15 SEC. 3121. REPROGRAMMING.

(a) IN GENERAL.—Until the Secretary of Energy submits to the congressional defense committees the report referred to in subsection (b) and a period of 30 days has elapsed after the date on which such committees receive the report, the Secretary may not use amounts appropriated pursuant to this title for any program—

22 (1) in amounts that exceed, in a fiscal year—

23 (A) 115 percent of the amount authorized
24 for that program by this title; or

1 (B) \$5,000,000 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) AUTHORITY.—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 provide a brief description of each minor construction
 6 project covered by the report.

7 (c) COST VARIATION REPORTS TO CONGRESSIONAL
 8 COMMITTEES.—If, at any time during the construction of
 9 any minor construction project authorized by this title, the
 10 estimated cost of the project is revised and the revised
 11 cost of the project exceeds \$5,000,000, the Secretary shall
 12 immediately submit to the congressional defense commit-
 13 tees a report explaining the reasons for the cost variation.

14 (d) MINOR CONSTRUCTION PROJECT DEFINED.—In
 15 this section, the term “minor construction project” means
 16 any plant project not specifically authorized by law if the
 17 approved total estimated cost of the plant project does not
 18 exceed \$5,000,000.

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

20 (a) IN GENERAL.—(1) Except as provided in para-
 21 graph (2), construction on a construction project may not
 22 be started or additional obligations incurred in connection
 23 with the project above the total estimated cost, whenever
 24 the current estimated cost of the construction project, au-
 25 thorized by section 3101, 3102, or 3103, or which is in

1 support of national security programs of the Department
 2 of Energy and was authorized by any previous Act, ex-
 3 ceeds by more than 25 percent the higher of—

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

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

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

10 (A) the Secretary of Energy has submitted to
 11 the congressional defense committees a report on the
 12 actions and the circumstances making such action
 13 necessary; and

14 (B) a period of 30 days has elapsed after the
 15 date on which the report is received by the commit-
 16 tees.

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

20 **SEC. 3124. FUND TRANSFER AUTHORITY.**

21 (a) **TRANSFER TO OTHER FEDERAL AGENCIES.**—
 22 The Secretary of Energy may transfer funds authorized
 23 to be appropriated to the Department of Energy pursuant
 24 to this title to other Federal agencies for the performance
 25 of work for which the funds were authorized. Funds so

1 transferred may be merged with and be available for the
2 same purposes and for the same time period as the author-
3 izations of the Federal agency to which the amounts are
4 transferred.

5 (b) TRANSFER WITHIN DEPARTMENT OF ENERGY.—

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

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

18 (c) LIMITATIONS.—The authority provided by this
19 subsection to transfer authorizations—

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

1 (2) may not be used to provide funds for an
2 item for which Congress has specifically denied
3 funds.

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

9 **SEC. 3125. AUTHORITY FOR CONCEPTUAL AND CONSTRUC-**
10 **TION DESIGN.**

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

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

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

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

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

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

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

11 (2) If the total estimated cost for construction design
 12 in connection with any construction project exceeds
 13 \$600,000, funds for that design must be specifically au-
 14 thorized by law.

15 **SEC. 3126. AUTHORITY FOR EMERGENCY PLANNING, DE-**
 16 **SIGN, AND CONSTRUCTION ACTIVITIES.**

17 (a) AUTHORITY.—The Secretary of Energy may use
 18 any funds available to the Department of Energy pursuant
 19 to an authorization in this title, including funds authorized
 20 to be appropriated for advance planning, engineering, and
 21 construction design, and for plant projects, under sections
 22 3101, 3102, 3103, and 3104 to perform planning, design,
 23 and construction activities for any Department of Energy
 24 national security program construction project that, as de-
 25 termined by the Secretary, must proceed expeditiously in

1 order to protect public health and safety, to meet the
2 needs of national defense, or to protect property.

3 (b) LIMITATION.—The Secretary may not exercise
4 the authority under subsection (a) in the case of any con-
5 struction project until the Secretary has submitted to the
6 congressional defense committees a report on the activities
7 that the Secretary intends to carry out under this section
8 and the circumstances making those activities necessary.

9 (c) SPECIFIC AUTHORITY.—The requirement of sec-
10 tion 3125(b)(2) does not apply to emergency planning, de-
11 sign, and construction activities conducted under this sec-
12 tion.

13 **SEC. 3127. FUNDS AVAILABLE FOR ALL NATIONAL SECU-**
14 **RITY PROGRAMS OF THE DEPARTMENT OF**
15 **ENERGY.**

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

22 **SEC. 3128. AVAILABILITY OF FUNDS.**

23 (a) IN GENERAL.—Except as provided in subsection
24 (b), when so specified in an appropriations Act, amounts

1 appropriated for operation and maintenance or for plant
2 projects may remain available until expended.

3 (b) EXCEPTION FOR PROGRAM DIRECTION FUNDS.—
4 Amounts appropriated for program direction pursuant to
5 an authorization of appropriations in subtitle A shall re-
6 main available to be expended only until the end of fiscal
7 year 2004.

8 **SEC. 3129. TRANSFER OF DEFENSE ENVIRONMENTAL MAN-**
9 **AGEMENT FUNDS.**

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

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

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

23 (3) A transfer may not be carried out by a manager
24 of a field office under subsection (a) unless the manager
25 determines that the transfer is necessary—

1 (A) to address a risk to health, safety, or the
2 environment; or

3 (B) to assure the most efficient use of defense
4 environmental management funds at the field office.

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

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

12 (d) NOTIFICATION.—The Secretary, acting through
13 the Assistant Secretary of Energy for Environmental
14 Management, shall notify Congress of any transfer of
15 funds pursuant to subsection (a) not later than 30 days
16 after such transfer occurs.

17 (e) DEFINITIONS.—In this section:

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

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

23 (B) A program or project not described in
24 subparagraph (A) that is for environmental res-
25 toration or waste management activities nec-

1 essary for national security programs of the De-
2 partment, that is being carried out by that of-
3 fice, and for which defense environmental man-
4 agement funds have been authorized and appro-
5 priated before the date of the enactment of this
6 Act.

7 (2) The term “defense environmental manage-
8 ment funds” means funds appropriated to the De-
9 partment of Energy pursuant to an authorization for
10 carrying out environmental restoration and waste
11 management activities necessary for national secu-
12 rity programs.

13 (f) DURATION OF AUTHORITY.—The managers of the
14 field offices of the Department may exercise the authority
15 provided under subsection (a) during the period beginning
16 on October 1, 2002, and ending on September 30, 2003.

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

18 (a) TRANSFER AUTHORITY FOR WEAPONS ACTIVI-
19 TIES FUNDS.—The Secretary of Energy shall provide the
20 manager of each field office of the Department of Energy
21 with the authority to transfer weapons activities funds
22 from a program or project under the jurisdiction of that
23 office to another such program or project.

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

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

7 (3) A transfer may not be carried out by a manager
 8 of a field office under subsection (a) unless the manager
 9 determines that the transfer—

10 (A) is necessary to address a risk to health,
 11 safety, or the environment; or

12 (B) will result in cost savings and efficiencies.

13 (4) A transfer may not be carried out by a manager
 14 of a field office under subsection (a) to cover a cost over-
 15 run or scheduling delay for any program or project.

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

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

23 (d) NOTIFICATION.—The Secretary, acting through
 24 the Administrator for Nuclear Security, shall notify Con-

1 gress of any transfer of funds pursuant to subsection (a)
2 not later than 30 days after such transfer occurs.

3 (e) DEFINITIONS.—In this section:

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

7 (A) A program referred to or a project list-
8 ed in section 3101(1).

9 (B) A program or project not described in
10 subparagraph (A) that is for weapons activities
11 necessary for national security programs of the
12 Department, that is being carried out by that
13 office, and for which weapons activities funds
14 have been authorized and appropriated before
15 the date of the enactment of this Act.

16 (2) The term “weapons activities funds” means
17 funds appropriated to the Department of Energy
18 pursuant to an authorization for carrying out weap-
19 ons activities necessary for national security pro-
20 grams.

21 (f) DURATION OF AUTHORITY.—The managers of the
22 field offices of the Department may exercise the authority
23 provided under subsection (a) during the period beginning
24 on October 1, 2002, and ending on September 30, 2003.

1 **Subtitle C—Program Authoriza-**
 2 **tions, Restrictions, and Limita-**
 3 **tions**

4 **SEC. 3131. AVAILABILITY OF FUNDS FOR ENVIRONMENTAL**
 5 **MANAGEMENT CLEANUP REFORM.**

6 (a) LIMITATION ON AVAILABILITY FOR ENVIRON-
 7 MENTAL MANAGEMENT CLEANUP REFORM.—None of the
 8 funds authorized to be appropriated by section 3102(8)
 9 for the Department of Energy for environmental manage-
 10 ment cleanup reform may be obligated or expended until
 11 the Secretary of Energy—

12 (1) publishes in the Federal Register, and sub-
 13 mits to the congressional defense committees, a re-
 14 port setting forth criteria established by the
 15 Secretary—

16 (A) for selecting the projects that will re-
 17 ceive funding using such funds; and

18 (B) for setting priorities among the
 19 projects selected under subparagraph (A); or

20 (2) notifies the congressional defense commit-
 21 tees that the criteria described by paragraph (1) will
 22 not be established.

23 (b) REQUIREMENTS REGARDING ESTABLISHMENT
 24 OF CRITERIA.—Before establishing criteria, if any, under
 25 subsection (a)(1), the Secretary shall publish a proposal

1 for such criteria in the Federal Register, and shall provide
2 a period of 45 days for public notice and comment on the
3 proposal.

4 (c) AVAILABILITY OF FUNDS IF CRITERIA ARE NOT
5 ESTABLISHED.—(1) If the Secretary exercises the author-
6 ity under subsection (a)(2), the Secretary shall reallocate
7 the funds referred to in subsection (a) among sites that
8 received funds during fiscal year 2002 for defense environ-
9 mental restoration and waste management activities under
10 section 3102 of the National Defense Authorization Act
11 for Fiscal Year 2002 (Public Law 107–197; 115 Stat.
12 1358).

13 (2) The amount of funds referred to in subsection
14 (a) that are allocated under paragraph (1) to a site de-
15 scribed in that paragraph shall bear the same ratio to the
16 amount of funds referred to in subsection (a) as the
17 amount of funds received by such site during fiscal year
18 2002 under section 3102 of the National Defense Author-
19 ization Act for Fiscal Year 2002 bears to the total amount
20 of funds made available to all sites during fiscal year 2002
21 under that section.

22 (3) No funds allocated under paragraph (1) may be
23 obligated or expended until 30 days after the Secretary
24 submits to the congressional defense committee a list of
25 the projects at each site allocated funds under that para-

1 graph, and the amount of such funds to be provided to
 2 each such project at each such site.

3 (4) Funds referred to in subsection (a) may not be
 4 obligated or expended for any site that was not funded
 5 in fiscal year 2002 from amounts available to the Depart-
 6 ment of Energy under title XXXI of the National Defense
 7 Authorization Act for Fiscal Year 2002.

8 **SEC. 3132. ROBUST NUCLEAR EARTH PENETRATOR.**

9 Not later than February 3, 2003, the Secretary of
 10 Defense shall, in consultation with the Secretary of En-
 11 ergy, submit to the congressional defense committees a re-
 12 port on the Robust Nuclear Earth Penetrator (RNEP).
 13 The report shall set forth—

14 (1) the military requirements for the Robust
 15 Nuclear Earth Penetrator;

16 (2) the nuclear weapons employment policy re-
 17 garding the Robust Nuclear Earth Penetrator;

18 (3) a detailed description of the categories or
 19 types of targets that the Robust Nuclear Earth Pen-
 20 etrator is designed to hold at risk; and

21 (4) an assessment of the ability of conventional
 22 weapons to address the same categories and types of
 23 targets described under paragraph (3).

1 **SEC. 3133. DATABASE TO TRACK NOTIFICATION AND RESO-**
2 **LUTION PHASES OF SIGNIFICANT FINDING**
3 **INVESTIGATIONS.**

4 (a) AVAILABILITY OF FUNDS FOR DATABASE.—
5 Amounts authorized to be appropriated by section 3101(1)
6 for the National Nuclear Security Administration for
7 weapons activities shall be available to the Deputy Admin-
8 istrator for Nuclear Security for Defense Programs for the
9 development and implementation of a database for all na-
10 tional security laboratories to track the notification and
11 resolution phases of Significant Finding Investigations
12 (SFIs). The purpose of the database is to facilitate the
13 monitoring of the progress and accountability of the na-
14 tional security laboratories in Significant Finding Inves-
15 tigations.

16 (b) IMPLEMENTATION DEADLINE.—The database re-
17 quired by subsection (a) shall be implemented not later
18 than September 30, 2003.

19 (c) NATIONAL SECURITY LABORATORY DEFINED.—
20 In this section, the term “national security laboratory”
21 has the meaning given that term in section 3281(1) of
22 the National Nuclear Security Administration Act (title
23 XXXII of Public Law 106–65; 113 Stat. 968; 50 U.S.C.
24 2471(1)).

1 **SEC. 3134. REQUIREMENTS FOR SPECIFIC REQUEST FOR**
2 **NEW OR MODIFIED NUCLEAR WEAPONS.**

3 (a) REQUIREMENT FOR REQUEST FOR FUNDS FOR
4 DEVELOPMENT.—(1) In any fiscal year after fiscal year
5 2002 in which the Secretary of Energy plans to carry out
6 activities described in paragraph (2) relating to the devel-
7 opment of a new nuclear weapon or modified nuclear
8 weapon, the Secretary shall specifically request funds for
9 such activities in the budget of the President for that fis-
10 cal year under section 1105(a) of title 31, United States
11 Code.

12 (2) The activities described in this paragraph are as
13 follows:

14 (A) The conduct, or provision for conduct, of
15 research and development which could lead to the
16 production of a new nuclear weapon by the United
17 States.

18 (B) The conduct, or provision for conduct, of
19 engineering or manufacturing to carry out the pro-
20 duction of a new nuclear weapon by the United
21 States.

22 (C) The conduct, or provision for conduct, of
23 research and development which could lead to the
24 production of a modified nuclear weapon by the
25 United States.

1 (D) The conduct, or provision for conduct, of
2 engineering or manufacturing to carry out the pro-
3 duction of a modified nuclear weapon by the United
4 States.

5 (b) BUDGET REQUEST FORMAT.—The Secretary
6 shall include in a request for funds under subsection (a)
7 the following:

8 (1) In the case of funds for activities described
9 in subparagraph (A) or (C) of subsection (a)(2), a
10 dedicated line item for each such activity for a new
11 nuclear weapon or modified nuclear weapons that is
12 in phase 1 or 2A or phase 6.1 or 6.2A, as the case
13 may be, of the nuclear weapons acquisition process.

14 (2) In the case of funds for activities described
15 in subparagraph (B) or (D) of subsection (a)(2), a
16 dedicated line item for each such activity for a new
17 nuclear weapon or modified nuclear weapon that is
18 in phase 3 or higher or phase 6.3 or higher, as the
19 case may be, of the nuclear weapons acquisition
20 process.

21 (c) EXCEPTION.—Subsections (a) shall not apply to
22 funds for purposes of conducting, or providing for the con-
23 duct of, research and development, or manufacturing and
24 engineering, determined by the Secretary to be
25 necessary—

1 (1) for the nuclear weapons life extension pro-
2 gram;

3 (2) to modify an existing nuclear weapon solely
4 to address safety or reliability concerns; or

5 (3) to address proliferation concerns.

6 (d) CONSTRUCTION WITH PROHIBITION ON RE-
7 SEARCH AND DEVELOPMENT ON LOW-YIELD NUCLEAR
8 WEAPONS.—Nothing in this section may be construed to
9 modify, repeal, or in any way affect the provisions of sec-
10 tion 3136 of the National Defense Authorization Act for
11 Fiscal Year 1994 (Public Law 103–160; 107 Stat. 1946;
12 42 U.S.C. 2121 note), relating to prohibitions on research
13 and development on low-yield nuclear weapons.

14 (e) DEFINITIONS.—In this section:

15 (1) The term “life extension program” means
16 the program to repair or replace non-nuclear compo-
17 nents, or to modify the pit or canned subassembly,
18 of nuclear weapons in the nuclear weapons stockpile
19 on the date of the enactment of this Act in order to
20 assure that such nuclear weapons retain the ability
21 to meet the military requirements applicable to such
22 nuclear weapons when first placed in the nuclear
23 weapons stockpile.

1 (2) The term “modified nuclear weapon” means
 2 a nuclear weapon that contains a pit or canned sub-
 3 assembly, either of which—

4 (A) is in the nuclear weapons stockpile as
 5 of the date of the enactment of this Act; and

6 (B) is being modified in order to meet a
 7 military requirement that is other than the mili-
 8 tary requirements applicable to such nuclear
 9 weapon when first placed in the nuclear weap-
 10 ons stockpile.

11 (3) The term “new nuclear weapon” means a
 12 nuclear weapon that contains a pit or canned sub-
 13 assembly, either of which is neither—

14 (A) in the nuclear weapons stockpile on the
 15 date of the enactment of this Act; nor

16 (B) in production as of that date.

17 **SEC. 3135. REQUIREMENT FOR AUTHORIZATION BY LAW**
 18 **FOR FUNDS OBLIGATED OR EXPENDED FOR**
 19 **DEPARTMENT OF ENERGY NATIONAL SECU-**
 20 **RITY ACTIVITIES.**

21 Section 660 of the Department of Energy Organiza-
 22 tion Act (42 U.S.C. 7270) is amended—

23 (1) by inserting “(a)” before “Appropriations”;
 24 and

1 (2) by adding at the end the following new sub-
2 section:

3 “(b)(1) No funds for the Department may be obli-
4 gated or expended for—

5 “(A) national security programs and activities
6 of the Department; or

7 “(B) activities under the Atomic Energy Act of
8 1954 (42 U.S.C. 2012 et seq.);

9 unless funds therefor have been specifically authorized by
10 law.

11 “(2) Nothing in paragraph (1) may be construed to
12 preclude the requirement under subsection (a), or under
13 any other provision of law, for an authorization of appro-
14 priations for programs and activities of the Department
15 (other than programs and activities covered by that para-
16 graph) as a condition to the obligation and expenditure
17 of funds for programs and activities of the Department
18 (other than programs and activities covered by that para-
19 graph).”.

20 **SEC. 3136. LIMITATION ON AVAILABILITY OF FUNDS FOR**
21 **PROGRAM TO ELIMINATE WEAPONS GRADE**
22 **PLUTONIUM PRODUCTION IN RUSSIA.**

23 (a) LIMITATION.—Of the amounts authorized to be
24 appropriated by this title for the program to eliminate
25 weapons grade plutonium production, the Administrator

1 for Nuclear Security may not obligate or expend more
2 than \$100,000,000 for that program until 30 days after
3 the date on which the Administrator submits to the con-
4 gressional defense committees a copy of an agreement en-
5 tered into between the United States Government and the
6 Government of the Russian Federation to shut down the
7 three plutonium-producing reactors in Russia.

8 (b) AGREEMENT ELEMENTS.—The agreement under
9 subsection (a)—

10 (1) shall contain—

11 (A) a commitment to shut down the three
12 plutonium-producing reactors;

13 (B) the date on which each such reactor
14 will be shut down;

15 (C) a schedule and milestones for each
16 such reactor to complete the shut down of such
17 reactor by the date specified under subpara-
18 graph (B);

19 (D) an arrangement for access to sites and
20 facilities necessary to meet such schedules and
21 milestones; and

22 (E) an arrangement for audit and exam-
23 ination procedures in order to evaluate progress
24 in meeting such schedules and milestones; and

25 (2) may include cost sharing arrangements.

1 **Subtitle D—Proliferation Matters**

2 **SEC. 3151. ADMINISTRATION OF PROGRAM TO ELIMINATE** 3 **WEAPONS GRADE PLUTONIUM PRODUCTION** 4 **IN RUSSIA.**

5 (a) TRANSFER OF PROGRAM TO DEPARTMENT OF
6 ENERGY.—The program to eliminate weapons grade plu-
7 tonium production in Russia shall be transferred from the
8 Department of Defense to the Department of Energy.

9 (b) TRANSFER OF ASSOCIATED FUNDS.—(1) Not-
10 withstanding any restriction or limitation in law on the
11 availability of Cooperative Threat Reduction funds speci-
12 fied in paragraph (2), the Cooperative Threat Reduction
13 funds specified in that paragraph that are available for
14 the program referred to in subsection (a) shall be trans-
15 ferred from the Department of Defense to the Department
16 of Energy.

17 (2) The Cooperative Threat Reduction funds speci-
18 fied in this paragraph are the following:

19 (A) Fiscal year 2002 Cooperative Threat Re-
20 duction funds, as specified in section 1301(b) of the
21 National Defense Authorization Act for Fiscal Year
22 2002 (Public Law 107–107; 115 Stat. 1254; 22
23 U.S.C. 5952 note).

24 (B) Fiscal year 2001 Cooperative Threat Re-
25 duction funds, as specified in section 1301(b) of the

1 Floyd D. Spence National Defense Authorization
2 Act for Fiscal Year 2001 (as enacted into law by
3 Public Law 106–398; 114 Stat. 1654A–339).

4 (C) Fiscal year 2000 Cooperative Threat Re-
5 duction funds, as specified in section 1301(b) of the
6 National Defense Authorization Act for Fiscal Year
7 2000 (Public Law 106–65; 113 Stat. 792; 22 U.S.C.
8 5952 note).

9 (c) AVAILABILITY OF TRANSFERRED FUNDS.—(1)
10 Notwithstanding any restriction or limitation in law on the
11 availability of Cooperative Threat Reduction funds speci-
12 fied in subsection (b)(2), the Cooperative Threat Reduc-
13 tion funds transferred under subsection (b) for the pro-
14 gram referred to in subsection (a) shall be available for
15 activities as follows:

16 (A) To design and construct, refurbish, or both,
17 fossil fuel energy plants in Russia that provide alter-
18 native sources of energy to the energy plants in Rus-
19 sia that produce weapons grade plutonium.

20 (B) To carry out limited safety upgrades of not
21 more than three energy plants in Russia that
22 produce weapons grade plutonium in order to permit
23 the shutdown of such energy plants and eliminate
24 the production of weapons grade plutonium in such
25 energy plants.

1 (2) Amounts available under paragraph (1) for activi-
 2 ties referred to in that paragraph shall remain available
 3 for such activities until expended.

4 **SEC. 3152. REPEAL OF REQUIREMENT FOR REPORTS ON**
 5 **OBLIGATION OF FUNDS FOR PROGRAMS ON**
 6 **FISSILE MATERIALS IN RUSSIA.**

7 Section 3131 of the National Defense Authorization
 8 Act for Fiscal Year 1996 (Public Law 104–106; 110 Stat.
 9 617; 22 U.S.C. 5952 note) is amended—

10 (1) in subsection (a), by striking “(a) AUTHOR-
 11 ITY.—”; and

12 (2) by striking subsection (b).

13 **SEC. 3153. EXPANSION OF ANNUAL REPORTS ON STATUS OF**
 14 **NUCLEAR MATERIALS PROTECTION, CON-**
 15 **TROL, AND ACCOUNTING PROGRAMS.**

16 (a) COVERED PROGRAMS.—Subsection (a) of section
 17 3171 of the Floyd D. Spence National Defense Authoriza-
 18 tion Act for Fiscal Year 2001 (as enacted into law by Pub-
 19 lic Law 106–398; 114 Stat. 1654A–475) is amended by
 20 striking “Russia that” and inserting “countries where
 21 such materials”.

22 (b) REPORT CONTENTS.—Subsection (b) of that sec-
 23 tion is amended—

1 (1) in paragraph (1) by inserting “in each
2 country covered by subsection (a)” after “loca-
3 tions,”;

4 (2) in paragraph (2), by striking “in Russia”
5 and inserting “in each such country”;

6 (3) in paragraph (3), by inserting “in each such
7 country” after “subsection (a)”; and

8 (4) in paragraph (5), by striking “by total
9 amount and by amount per fiscal year” and insert-
10 ing “by total amount per country and by amount per
11 fiscal year per country”.

12 **SEC. 3154. TESTING OF PREPAREDNESS FOR EMERGENCIES**
13 **INVOLVING NUCLEAR, RADIOLOGICAL, CHEM-**
14 **ICAL, OR BIOLOGICAL WEAPONS.**

15 (a) EXTENSION OF TESTING.—Section 1415 of the
16 Defense Against Weapons of Mass Destruction Act of
17 1996 (title XIV of Public Law 104–201; 110 Stat. 2720;
18 50 U.S.C. 2315) is amended—

19 (1) in subsection (a)(2), by striking “of five
20 successive fiscal years beginning with fiscal year
21 1997” and inserting “of fiscal years 1997 through
22 2013”; and

23 (2) in subsection (b)(2), by striking “of five
24 successive fiscal years beginning with fiscal year

1 1997” and inserting “of fiscal years 1997 through
2 2013”.

3 (b) CONSTRUCTION OF EXTENSION WITH DESIGNA-
4 TION OF ATTORNEY GENERAL AS LEAD OFFICIAL.—The
5 amendment made by subsection (a) may not be construed
6 as modifying the designation of the President entitled
7 “Designation of the Attorney General as the Lead Official
8 for the Emergency Response Assistance Program Under
9 Sections 1412 and 1415 of the National Defense Author-
10 ization Act for Fiscal Year 1997”, dated April 6, 2000,
11 designating the Attorney General to assume programmatic
12 and funding responsibilities for the Emergency Response
13 Assistance Program under sections 1412 and 1415 of the
14 Defense Against Weapons of Mass Destruction Act of
15 1996.

16 **SEC. 3155. PROGRAM ON RESEARCH AND TECHNOLOGY**
17 **FOR PROTECTION FROM NUCLEAR OR RADI-**
18 **OLOGICAL TERRORISM.**

19 (a) PROGRAM REQUIRED.—(1) The Administrator
20 for Nuclear Security shall carry out a program on research
21 and technology for protection from nuclear or radiological
22 terrorism, including technology for the detection (particu-
23 larly as border crossings and ports of entry), identifica-
24 tion, assessment, control, disposition, consequence man-

1 agement, and consequence mitigation of the dispersal of
2 radiological materials or of nuclear terrorism.

3 (2) The Administrator shall carry out the program
4 as part of the support of the Administrator for homeland
5 security and counterterrorism within the National Nuclear
6 Security Administration

7 (b) PROGRAM ELEMENTS.—In carrying out the pro-
8 gram required by subsection (a), the Administrator
9 shall—

10 (1) provide for the development of technologies
11 to respond to threats or incidents involving nuclear
12 or radiological terrorism in the United States;

13 (2) demonstrate applications of the technologies
14 developed under paragraph (1), including joint dem-
15 onstrations with the Office of Homeland Security
16 and other appropriate Federal agencies;

17 (3) provide, where feasible, for the development
18 in cooperation with the Russian Federation of tech-
19 nologies to respond to nuclear or radiological ter-
20 rorism in the former states of the Soviet Union, in-
21 cluding the demonstration of technologies so devel-
22 oped;

23 (4) provide, where feasible, assistance to other
24 countries on matters relating to nuclear or radio-
25 logical terrorism, including—

1 (A) the provision of technology and assist-
2 ance on means of addressing nuclear or radio-
3 logical incidents;

4 (B) the provision of assistance in devel-
5 oping means for the safe disposal of radioactive
6 materials;

7 (C) in coordination with the Nuclear Regu-
8 latory Commission, the provision of assistance
9 in developing the regulatory framework for li-
10 censing and developing programs for the protec-
11 tion and control of radioactive sources; and

12 (D) the provision of assistance in evalu-
13 ating the radiological sources identified as not
14 under current accounting programs in the re-
15 port of the Inspector General of the Depart-
16 ment of Energy entitled “Accounting for Sealed
17 Sources of Nuclear Material Provided to For-
18 eign Countries”, and in identifying and control-
19 ling radiological sources that represent signifi-
20 cant risks; and

21 (5) in coordination with the Office of Environ-
22 ment, Safety, and Health of the Department of En-
23 ergy, the Department of Commerce, and the Inter-
24 national Atomic Energy Agency, develop consistent

1 criteria for screening international transfers of radi-
 2 ological materials.

3 (c) REQUIREMENTS FOR INTERNATIONAL ELEMENTS
 4 OF PROGRAM.—(1) In carrying out activities in accord-
 5 ance with paragraphs (3) and (4) of subsection (b), the
 6 Administrator shall consult with—

7 (A) the Secretary of Defense, Secretary of
 8 State, and Secretary of Commerce; and

9 (B) the International Atomic Energy Agency.

10 (2) The Administrator shall encourage joint leader-
 11 ship between the United States and the Russian Federa-
 12 tion of activities on the development of technologies under
 13 subsection (b)(4).

14 (d) INCORPORATION OF RESULTS IN EMERGENCY
 15 RESPONSE ASSISTANCE PROGRAM.—To the maximum ex-
 16 tent practicable, the technologies and information devel-
 17 oped under the program required by subsection (a) shall
 18 be incorporated into the program on responses to emer-
 19 gencies involving nuclear and radiological weapons carried
 20 out under section 1415 of the Defense Against Weapons
 21 of Mass Destruction Act of 1996 (title XIV of Public Law
 22 104–201; 50 U.S.C. 2315).

23 (e) AMOUNT FOR ACTIVITIES.—Of the amount au-
 24 thorized to be appropriated by section 3101(2) for the De-
 25 partment of Energy for the National Nuclear Security Ad-

1 ministration for defense nuclear nonproliferation and
 2 available for the development of a new generation of radi-
 3 ation detectors for homeland defense, up to \$15,000,000
 4 shall be available for carrying out this section.

5 **SEC. 3156. EXPANSION OF INTERNATIONAL MATERIALS**
 6 **PROTECTION, CONTROL, AND ACCOUNTING**
 7 **PROGRAM.**

8 (a) EXPANSION OF PROGRAM TO ADDITIONAL COUN-
 9 TRIES AUTHORIZED.—The Secretary of Energy may ex-
 10 pand the International Materials Protection, Control, and
 11 Accounting (MPC&A) program of the Department of En-
 12 ergy to encompass countries outside the Russian Federa-
 13 tion and the independent states of the former Soviet
 14 Union.

15 (b) NOTICE TO CONGRESS OF USE OF FUNDS FOR
 16 ADDITIONAL COUNTRIES.—Not later than 30 days after
 17 the Secretary obligates funds for the International Mate-
 18 rials Protection, Control, and Accounting program, as ex-
 19 panded under subsection (a), for activities in or with re-
 20 spect to a country outside the Russian Federation and the
 21 independent states of the former Soviet Union, the Sec-
 22 retary shall submit to Congress a notice of the obligation
 23 of such funds for such activities.

24 (c) ASSISTANCE TO DEPARTMENT OF STATE FOR
 25 NUCLEAR MATERIALS SECURITY PROGRAMS.—(1) As

1 part of the International Materials Protection, Control,
2 and Accounting program, the Secretary of Energy may
3 provide technical assistance to the Secretary of State in
4 the efforts of the Secretary of State to assist other nuclear
5 weapons states to review and improve their nuclear mate-
6 rials security programs.

7 (2) The technical assistance provided under para-
8 graph (1) may include the sharing of technology or meth-
9 odologies to the states referred to in that paragraph. Any
10 such sharing shall—

11 (A) be consistent with the treaty obligations of
12 the United States; and

13 (B) take into account the sovereignty of the
14 state concerned and its weapons programs, as well
15 the sensitivity of any information involved regarding
16 United States weapons or weapons systems.

17 (3) The Secretary of Energy may include the Russian
18 Federation in activities under paragraph (1) if the Sec-
19 retary determines that the experience of the Russian Fed-
20 eration under the International Materials Protection, Con-
21 trol, and Accounting program with the Russian Federa-
22 tion would make the participation of the Russian Federa-
23 tion in such activities useful in providing technical assist-
24 ance under that paragraph.

1 (d) PLAN FOR ACCELERATED CONVERSION OR RE-
2 TURN OF WEAPONS-USABLE NUCLEAR MATERIALS.—(1)

3 The Secretary shall develop a plan to accelerate the con-
4 version or return to the country of origin of all weapons-
5 usable nuclear materials located in research reactors and
6 other facilities outside the country of origin.

7 (2) The plan under paragraph (1) for nuclear mate-
8 rials of origin in the Soviet Union shall be developed in
9 consultation with the Russian Federation.

10 (3) As part of the plan under paragraph (1), the Sec-
11 retary shall identify the funding and schedules required
12 to assist the research reactors and facilities referred to
13 in that paragraph in upgrading their materials protection,
14 control, and accounting procedures until the weapons-usa-
15 ble nuclear materials in such reactors and facilities are
16 converted or returned in accordance with that paragraph.

17 (4) The provision of assistance under paragraph (3)
18 shall be closely coordinated with ongoing efforts of the
19 International Atomic Energy Agency for the same pur-
20 pose.

21 (e) RADIOLOGICAL DISPERSAL DEVICE MATERIALS
22 PROTECTION, CONTROL, AND ACCOUNTING.—(1) The
23 Secretary shall establish within the International Mate-
24 rials Protection, Control, and Accounting program a pro-

1 gram on the protection, control, and accounting of mate-
2 rials usable in radiological dispersal devices.

3 (2) The program under paragraph (1) shall include—

4 (A) an identification of vulnerabilities regarding
5 radiological materials worldwide;

6 (B) the mitigation of vulnerabilities so identi-
7 fied through appropriate security enhancements; and

8 (C) an acceleration of efforts to recover and
9 control diffused radiation sources and ‘orphaned’
10 radiological sources that are of sufficient strength to
11 represent a significant risk.

12 (3) The program under paragraph (1) shall be known
13 as the Radiological Dispersal Device Materials Protection,
14 Control, and Accounting program.

15 (f) STUDY OF PROGRAM TO SECURE CERTAIN RADI-
16 OLOGICAL MATERIALS.—(1) The Secretary, acting
17 through the Administrator for Nuclear Security, shall re-
18 quire the Office of International Materials Protection,
19 Control, and Accounting of the Department of Energy to
20 conduct a study to determine the feasibility and advis-
21 ability of developing a program to secure radiological ma-
22 terials outside the United States that pose a threat to the
23 national security of the United States.

24 (2) The study under paragraph (1) shall include the
25 following:

1 (A) An identification of the categories of radio-
2 logical materials that are covered by that paragraph,
3 including an order of priority for securing each cat-
4 egory of such radiological materials.

5 (B) An estimate of the number of sites at which
6 such radiological materials are present.

7 (C) An assessment of the effort required to se-
8 cure such radiological materials at such sites,
9 including—

10 (i) a description of the security upgrades,
11 if any, that are required at such sites;

12 (ii) an assessment of the costs of securing
13 such radiological materials at such sites;

14 (iii) a description of any cost-sharing ar-
15 rangements to defray such costs;

16 (iv) a description of any legal impediments
17 to such effort, including a description of means
18 of overcoming such impediments; and

19 (v) a description of the coordination re-
20 quired for such effort among appropriate
21 United States Government entities (including
22 the Nuclear Regulatory Commission), partici-
23 pating countries, and international bodies (in-
24 cluding the International Atomic Energy Agen-
25 cy).

1 (D) A description of the pilot project under-
2 taken in Russia.

3 (3) In identifying categories of radiological materials
4 under paragraph (2)(A), the Secretary shall take into ac-
5 count matters relating to specific activity, half-life, radi-
6 ation type and energy, attainability, difficulty of handling,
7 and toxicity, and such other matters as the Secretary con-
8 siders appropriate.

9 (4) Not later than one year after the date of the en-
10 actment of this Act, the Secretary shall submit to Con-
11 gress a report on the study conducted under this sub-
12 section. The report shall include the matters specified
13 under paragraph (2) and such other matters, including
14 recommendations, as the Secretary considers appropriate
15 as a result of the study.

16 (5) In this subsection, the term “radiological mate-
17 rial” means any radioactive material, other than pluto-
18 nium (Pu) or uranium enriched above 20 percent ura-
19 nium-235.

20 (g) AMENDMENT OF CONVENTION ON PHYSICAL
21 PROTECTION OF NUCLEAR MATERIAL.—(1) It is the
22 sense of Congress that the President should encourage
23 amendment of the Convention on the Physical Protection
24 of Nuclear Materials in order to provide that the Conven-
25 tion shall—

1 (A) apply to both the domestic and inter-
 2 national use and transport of nuclear materials;

3 (B) incorporate fundamental practices for the
 4 physical protection of such materials; and

5 (C) address protection against sabotage involv-
 6 ing nuclear materials.

7 (2) In this subsection, the term “Convention on the
 8 Physical Protection of Nuclear Materials” means the Con-
 9 vention on the Physical Protection of Nuclear Materials,
 10 With Annex, done at Vienna on October 26, 1979.

11 (h) AMOUNT FOR ACTIVITIES.—Of the amount au-
 12 thorized to be appropriated by section 3102(2) for the De-
 13 partment of Energy for the National Nuclear Security Ad-
 14 ministration for defense nuclear nonproliferation, up to
 15 \$5,000,000 shall be available for carrying out this section.

16 **SEC. 3157. ACCELERATED DISPOSITION OF HIGHLY EN-**
 17 **RICED URANIUM AND PLUTONIUM.**

18 (a) SENSE OF CONGRESS ON PROGRAM TO SECURE
 19 STOCKPILES OF HIGHLY ENRICHED URANIUM AND PLU-
 20 TONIUM.—(1) It is the sense of Congress that the Sec-
 21 retary of Energy, in consultation with the Secretary of
 22 State and Secretary of Defense, should develop a com-
 23 prehensive program of activities to encourage all countries
 24 with nuclear materials to adhere to, or to adopt standards
 25 equivalent to, the International Atomic Energy Agency

1 standard on The Physical Protection of Nuclear Material
 2 and Nuclear Facilities (INFCIRC/225/Rev.4), relating to
 3 the security of stockpiles of highly enriched uranium
 4 (HEU) and plutonium (Pu).

5 (2) To the maximum extent practicable, the program
 6 should be developed in consultation with the Russian Fed-
 7 eration, other Group of 8 countries, and other allies of
 8 the United States.

9 (3) Activities under the program should include spe-
 10 cific, targeted incentives intended to encourage countries
 11 that cannot undertake the expense of conforming to the
 12 standard referred to in paragraph (1) to relinquish their
 13 highly enriched uranium (HEU) or plutonium (Pu), in-
 14 cluding incentives in which a country, group of countries,
 15 or international body—

16 (A) purchase such materials and provide for
 17 their security (including by removal to another loca-
 18 tion);

19 (B) undertake the costs of decommissioning fa-
 20 cilities that house such materials;

21 (C) in the case of research reactors, convert
 22 such reactors to low-enriched uranium reactors; or

23 (D) upgrade the security of facilities that house
 24 such materials in order to meet stringent security

1 standards that are established for purposes of the
2 program based upon agreed best practices.

3 (b) PROGRAM ON ACCELERATED DISPOSITION OF
4 HEU AUTHORIZED.—(1) The Secretary of Energy may
5 carry out a program to pursue with the Russian Federa-
6 tion, and any other nation that possesses highly enriched
7 uranium, options for blending such uranium so that the
8 concentration of U-235 in such uranium is below 20 per-
9 cent.

10 (2) The options pursued under paragraph (1) shall
11 include expansion of the Material Consolidation and Con-
12 version program of the Department of Energy to
13 include—

14 (A) additional facilities for the blending of high-
15 ly enriched uranium; and

16 (B) additional centralized secure storage facili-
17 ties for highly enriched uranium designated for
18 blending.

19 (c) INCENTIVES REGARDING HIGHLY ENRICHED
20 URANIUM IN RUSSIA.—As part of the options pursued
21 under subsection (b) with the Russian Federation, the
22 Secretary may provide financial and other incentives for
23 the removal of all highly enriched uranium from any par-
24 ticular facility in the Russian Federation if the Secretary
25 determines that such incentives will facilitate the consoli-

1 dation of highly enriched uranium in the Russian Federa-
 2 tion to the best-secured facilities.

3 (d) CONSTRUCTION WITH HEU DISPOSITION
 4 AGREEMENT.—Nothing in this section may be construed
 5 as terminating, modifying, or otherwise effecting require-
 6 ments for the disposition of highly enriched uranium
 7 under the Agreement Between the Government of the
 8 United States of America and the Government of the Rus-
 9 sian Federation Concerning the Disposition of Highly En-
 10 riched Uranium Extracted from Nuclear Weapons, signed
 11 at Washington on February 18, 1993.

12 (e) PRIORITY IN BLENDING ACTIVITIES.—In pur-
 13 suing options under this section, the Secretary shall give
 14 priority to the blending of highly enriched uranium from
 15 weapons, though highly enriched uranium from sources
 16 other than weapons may also be blended.

17 (f) TRANSFER OF HIGHLY ENRICHED URANIUM AND
 18 PLUTONIUM TO UNITED STATES.—(1) As part of the pro-
 19 gram under subsection (b), the Secretary may, upon the
 20 request of any nation—

21 (A) purchase highly enriched uranium or weap-
 22 ons grade plutonium from the nation at a price de-
 23 termined by the Secretary;

24 (B) transport any uranium or plutonium so
 25 purchased to the United States; and

1 (C) store any uranium or plutonium so trans-
2 ported in the United States.

3 (2) The Secretary is not required to blend any highly
4 enriched uranium purchased under paragraph (1)(A) in
5 order to reduce the concentration of U-235 in such ura-
6 nium to below 20 percent. Amounts authorized to be ap-
7 propriated by subsection (m) may not be used for purposes
8 of blending such uranium.

9 (g) TRANSFER OF HIGHLY ENRICHED URANIUM TO
10 RUSSIA.—(1) As part of the program under subsection
11 (b), the Secretary may encourage nations with highly en-
12 riched uranium to transfer such uranium to the Russian
13 Federation for disposition under this section.

14 (2) The Secretary may pay any nation that transfers
15 highly enriched uranium to the Russian Federation under
16 this subsection an amount determined appropriate by the
17 Secretary.

18 (3) The Secretary may bear the cost of any blending
19 and storage of uranium transferred to the Russian Fed-
20 eration under this subsection, including any costs of blend-
21 ing and storage under a contract under subsection (h).
22 Any site selected for such storage shall have undergone
23 complete materials protection, control, and accounting up-
24 grades before the commencement of such storage.

1 (h) CONTRACTS FOR BLENDING AND STORAGE OF
2 HIGHLY ENRICHED URANIUM IN RUSSIA.—(1) As part of
3 the program under subsection (b), the Secretary may
4 enter into one or more contracts with the Russian
5 Federation—

6 (A) to blend in the Russian Federation highly
7 enriched uranium of the Russian Federation and
8 highly enriched uranium transferred to the Russian
9 Federation under subsection (g); or

10 (B) to store in the Russian Federation highly
11 enriched uranium before blending or the blended
12 material.

13 (2) Any site selected for the storage of uranium or
14 blended material under paragraph (1)(B) shall have un-
15 dergone complete materials protection, control, and ac-
16 counting upgrades before the commencement of such stor-
17 age.

18 (i) LIMITATION ON RELEASE FOR SALE OF BLENDED
19 URANIUM.—Uranium blended under this section may not
20 be released for sale until the earlier of—

21 (1) January 1, 2014; or

22 (2) the date on which the Secretary certifies
23 that such uranium can be absorbed into the global
24 market without undue disruption to the uranium
25 mining industry in the United States.

1 (j) PROCEEDS OF SALE OF URANIUM BLENDED BY
2 RUSSIA.—Upon the sale by the Russian Federation of
3 uranium blended under this section by the Russian Fed-
4 eration, the Secretary may elect to receive from the pro-
5 ceeds of such sale an amount not to exceed 75 percent
6 of the costs incurred by the Department of Energy under
7 subsections (c), (g), and (h).

8 (k) REPORT ON STATUS OF PROGRAM.—Not later
9 than July 1, 2003, the Secretary shall submit to Congress
10 a report on the status of the program carried out under
11 the authority in subsection (b). The report shall include—

12 (1) a description of international interest in the
13 program;

14 (2) schedules and operational details of the pro-
15 gram; and

16 (3) recommendations for future funding for the
17 program.

18 (l) HIGHLY ENRICHED URANIUM DEFINED.—In this
19 section, the term “highly enriched uranium” means ura-
20 nium with a concentration of U-235 of 20 percent or
21 more.

22 (m) AMOUNT FOR ACTIVITIES.—Of the amount to be
23 appropriated by section 3102(2) for the Department of
24 Energy for the National Nuclear Security Administration

1 for defense nuclear nonproliferation, up to \$40,000,000
2 shall be available for carrying out this section.

3 **SEC. 3158. DISPOSITION OF PLUTONIUM IN RUSSIA.**

4 (a) NEGOTIATIONS WITH RUSSIAN FEDERATION.—

5 (1) The Secretary of Energy is encouraged to continue to
6 support the Secretary of State in negotiations with the
7 Ministry of Atomic Energy of the Russian Federation to
8 finalize the plutonium disposition program of the Russian
9 Federation (as established under the agreement described
10 in subsection (b)).

11 (2) As part of the negotiations, the Secretary of En-
12 ergy may consider providing additional funds to the Min-
13 istry of Atomic Energy in order to reach a successful
14 agreement.

15 (3) If such an agreement, meeting the requirements
16 in subsection (c), is reached with the Ministry of Atomic
17 Energy, which requires additional funds for the Russian
18 work, the Secretary shall either seek authority to use
19 funds available for another purpose, or request supple-
20 mental appropriations, for such work.

21 (b) AGREEMENT.—The agreement referred to in sub-
22 section (a) is the Agreement Between the Government of
23 the United States of America and the Government of the
24 Russian Federation Concerning the Management and Dis-
25 position of Plutonium Designated As No Longer Required

1 For Defense Purposes and Related Cooperation, signed
2 August 29, 2000, and September 1, 2000.

3 (c) REQUIREMENT FOR DISPOSITION PROGRAM.—

4 The plutonium disposition program under subsection
5 (a)—

6 (1) shall include transparent verifiable steps;

7 (2) shall proceed at a rate approximately equiv-
8 alent to the rate of the United States program for
9 the disposition of plutonium;

10 (3) shall provide for cost-sharing among a vari-
11 ety of countries;

12 (4) shall provide for contributions by the Rus-
13 sian Federation;

14 (5) shall include steps over the near term to
15 provide high confidence that the schedules for the
16 disposition of plutonium of the Russian Federation
17 will be achieved; and

18 (6) may include research on more speculative
19 long-term options for the future disposition of the
20 plutonium of the Russian Federation in addition to
21 the near-term steps under paragraph (5).

1 **SEC. 3159. STRENGTHENED INTERNATIONAL SECURITY**
2 **FOR NUCLEAR MATERIALS AND SAFETY AND**
3 **SECURITY OF NUCLEAR OPERATIONS.**

4 (a) REPORT ON OPTIONS FOR INTERNATIONAL PRO-
5 GRAM TO STRENGTHEN SECURITY AND SAFETY.—(1)
6 Not later than 270 days after the date of the enactment
7 of this Act, the Secretary of Energy shall submit to Con-
8 gress a report on options for an international program to
9 develop strengthened security for all nuclear materials and
10 safety and security for current nuclear operations.

11 (2) The Secretary shall consult with the Office of Nu-
12 clear Energy Science and Technology of the Department
13 of Energy in the development of options for purposes of
14 the report.

15 (3) In evaluating options for purposes of the report,
16 the Secretary shall consult with the Nuclear Regulatory
17 Commission and the International Atomic Energy Agency
18 on the feasibility and advisability of actions to reduce the
19 risks associated with terrorist attacks on nuclear power
20 plants outside the United States.

21 (4) Each option for an international program under
22 paragraph (1) may provide that the program is jointly led
23 by the United States, the Russian Federation, and the
24 International Atomic Energy Agency.

25 (5) The Secretary shall include with the report on
26 options for an international program under paragraph (1)

1 a description and assessment of various management al-
2 ternatives for the international program. If any option re-
3 quires Federal funding or legislation to implement, the re-
4 port shall also include recommendations for such funding
5 or legislation, as the case may be.

6 (b) JOINT PROGRAMS WITH RUSSIA ON PROLIFERA-
7 TION RESISTANT NUCLEAR ENERGY TECHNOLOGIES.—
8 The Director of the Office of Nuclear Energy Science and
9 Technology Energy shall, in coordination with the Sec-
10 retary, pursue with the Ministry of Atomic Energy of the
11 Russian Federation joint programs between the United
12 States and the Russian Federation on the development of
13 proliferation resistant nuclear energy technologies, includ-
14 ing advanced fuel cycles.

15 (c) PARTICIPATION OF INTERNATIONAL TECHNICAL
16 EXPERTS.—In developing options under subsection (a),
17 the Secretary shall, in consultation with the Nuclear Regu-
18 latory Commission, the Russian Federation, and the Inter-
19 national Atomic Energy Agency, convene and consult with
20 an appropriate group of international technical experts on
21 the development of various options for technologies to pro-
22 vide strengthened security for nuclear materials and safety
23 and security for current nuclear operations, including the
24 implementation of such options.

1 (d) ASSISTANCE REGARDING HOSTILE INSIDERS AND
 2 AIRCRAFT IMPACTS.—(1) The Secretary may, utilizing ap-
 3 propriate expertise of the Department of Energy and the
 4 Nuclear Regulatory Commission, provide assistance to nu-
 5 clear facilities abroad on the interdiction of hostile insiders
 6 at such facilities in order to prevent incidents arising from
 7 the disablement of the vital systems of such facilities.

8 (2) The Secretary may carry out a joint program with
 9 the Russian Federation and other countries to address
 10 and mitigate concerns on the impact of aircraft with nu-
 11 clear facilities in such countries.

12 (e) ASSISTANCE TO IAEA IN STRENGTHENING
 13 INTERNATIONAL NUCLEAR SAFETY AND SECURITY.—The
 14 Secretary may expand and accelerate the programs of the
 15 Department of Energy to support the International Atom-
 16 ic Energy Agency in strengthening international nuclear
 17 safety and security.

18 (f) AMOUNT FOR ACTIVITIES.—Of the amount au-
 19 thorized to be appropriated by section 3102(2) for the De-
 20 partment of Energy for the National Nuclear Security Ad-
 21 ministration for defense nuclear nonproliferation, up to
 22 \$35,000,000 shall be available for carrying out this section
 23 as follows:

24 (1) For activities under subsections (a) through
 25 (d), \$20,000,000, of which—

1 (A) \$5,000,000 shall be available for sabo-
2 tage protection for nuclear power plants and
3 other nuclear facilities abroad; and

4 (B) \$10,000,000 shall be available for de-
5 velopment of proliferation resistant nuclear en-
6 ergy technologies under subsection (b).

7 (2) For activities under subsection (e),
8 \$15,000,000.

9 **SEC. 3160. EXPORT CONTROL PROGRAMS.**

10 (a) **AUTHORITY TO PURSUE OPTIONS FOR**
11 **STRENGTHENING EXPORT CONTROL PROGRAMS.**—The
12 Secretary of Energy may pursue in the former Soviet
13 Union and other regions of concern, principally in South
14 Asia, the Middle East, and the Far East, options for accel-
15 erating programs that assist countries in such regions in
16 improving their domestic export control programs for ma-
17 terials, technologies, and expertise relevant to the con-
18 struction or use of a nuclear or radiological dispersal de-
19 vice.

20 (b) **AMOUNT FOR ACTIVITIES.**—Of the amount au-
21 thorized to be appropriated by section 3102(2) for the De-
22 partment of Energy for the National Nuclear Security Ad-
23 ministration for defense nuclear nonproliferation, up to
24 \$5,000,000 shall be available for carrying out this section.

1 **SEC. 3161. IMPROVEMENTS TO NUCLEAR MATERIALS PRO-**
2 **TECTION, CONTROL, AND ACCOUNTING PRO-**
3 **GRAM OF THE RUSSIAN FEDERATION.**

4 (a) REVISED FOCUS FOR PROGRAM.—(1) The Sec-
5 retary of Energy shall work cooperatively with the Russian
6 Federation to update and improve the Joint Action Plan
7 for the Materials Protection, Control, and Accounting pro-
8 grams of the Department and the Russian Federation
9 Ministry of Atomic Energy.

10 (2) The updated plan shall shift the focus of the up-
11 grades of the nuclear materials protection, control, and ac-
12 counting program of the Russian Federation in order to
13 assist the Russian Federation in achieving, as soon as
14 practicable but not later than January 1, 2012, a sustain-
15 able nuclear materials protection, control, and accounting
16 system for the nuclear materials of the Russian Federa-
17 tion that is supported solely by the Russian Federation.

18 (b) PACE OF PROGRAM.—The Secretary shall work
19 with the Russian Federation, including applicable insti-
20 tutes in Russia, to pursue acceleration of the nuclear ma-
21 terials protection, control, and accounting programs at nu-
22 clear defense facilities in the Russian Federation.

23 (c) TRANSPARENCY OF PROGRAM.—The Secretary
24 shall work with the Russian Federation to identify various
25 alternatives to provide the United States adequate trans-
26 parency in the nuclear materials protection, control, and

1 accounting program of the Russian Federation to assure
 2 that such program is meeting applicable goals for nuclear
 3 materials protection, control, and accounting.

4 (d) SENSE OF CONGRESS.—In furtherance of the ac-
 5 tivities required under this section, it is the sense of Con-
 6 gress the Secretary should—

7 (1) enhance the partnership with the Russian
 8 Ministry of Atomic Energy in order to increase the
 9 pace and effectiveness of nuclear materials account-
 10 ing and security activities at facilities in the Russian
 11 Federation, including serial production enterprises;
 12 and

13 (2) clearly identify the assistance required by
 14 the Russian Federation, the contributions antici-
 15 pated from the Russian Federation, and the trans-
 16 parency milestones that can be used to assess
 17 progress in meeting the requirements of this section.

18 **SEC. 3162. COMPREHENSIVE ANNUAL REPORT TO CON-**
 19 **GRESS ON COORDINATION AND INTEGRA-**
 20 **TION OF ALL UNITED STATES NON-**
 21 **PROLIFERATION ACTIVITIES.**

22 Section 1205 of the National Defense Authorization
 23 Act for Fiscal Year 2002 (Public Law 107–107; 115 Stat.
 24 1247) is amended by adding at the end the following new
 25 subsection:

1 “(d) ANNUAL REPORT ON IMPLEMENTATION OF
2 PLAN.—(1) Not later than January 31, 2003, and each
3 year thereafter, the President shall submit to Congress a
4 report on the implementation of the plan required by sub-
5 section (a) during the preceding year.

6 “(2) Each report under paragraph (1) shall include—

7 “(A) a discussion of progress made during the
8 year covered by such report in the matters of the
9 plan required by subsection (a);

10 “(B) a discussion of consultations with foreign
11 nations, and in particular the Russian Federation,
12 during such year on joint programs to implement
13 the plan;

14 “(C) a discussion of cooperation, coordination,
15 and integration during such year in the implementa-
16 tion of the plan among the various departments and
17 agencies of the United States Government, as well
18 as private entities that share objectives similar to
19 the objectives of the plan; and

20 “(D) any recommendations that the President
21 considers appropriate regarding modifications to law
22 or regulations, or to the administration or organiza-
23 tion of any Federal department or agency, in order
24 to improve the effectiveness of any programs carried

1 out during such year in the implementation of the
 2 plan.”.

3 **SEC. 3163. UTILIZATION OF DEPARTMENT OF ENERGY NA-**
 4 **TIONAL LABORATORIES AND SITES IN SUP-**
 5 **PORT OF COUNTERTERRORISM AND HOME-**
 6 **LAND SECURITY ACTIVITIES.**

7 (a) AGENCIES AS JOINT SPONSORS OF LABORA-
 8 TORIES FOR WORK ON ACTIVITIES.—Each department or
 9 agency of the Federal Government, or of a State or local
 10 government, that carries out work on counterterrorism
 11 and homeland security activities at a Department of En-
 12 ergy national laboratory may be a joint sponsor, under a
 13 multiple agency sponsorship arrangement with the De-
 14 partment, of such laboratory in the performance of such
 15 work.

16 (b) AGENCIES AS JOINT SPONSORS OF SITES FOR
 17 WORK ON ACTIVITIES.—Each department or agency of
 18 the Federal Government, or of a State or local govern-
 19 ment, that carries out work on counterterrorism and
 20 homeland security activities at a Department of Energy
 21 site may be a joint sponsor of such site in the performance
 22 of such work as if such site were a federally funded re-
 23 search and development center and such work were per-
 24 formed under a multiple agency sponsorship arrangement
 25 with the Department.

1 (c) PRIMARY SPONSORSHIP.—The Department of
2 Energy shall be the primary sponsor under a multiple
3 agency sponsorship arrangement required under sub-
4 section (a) or (b).

5 (d) WORK.—(1) The Administrator for Nuclear Secu-
6 rity shall act as the lead agent in coordinating the forma-
7 tion and performance of a joint sponsorship agreement be-
8 tween a requesting agency and a Department of Energy
9 national laboratory or site for work on counterterrorism
10 and homeland security.

11 (2) A request for work may not be submitted to a
12 national laboratory or site under this section unless ap-
13 proved in advance by the Administrator.

14 (3) Any work performed by a national laboratory or
15 site under this section shall comply with the policy on the
16 use of federally funded research and development centers
17 under section 35.017(a)(4) of the Federal Acquisition
18 Regulation.

19 (4) The Administrator shall ensure that the work of
20 a national laboratory or site requested under this section
21 is performed expeditiously and to the satisfaction of the
22 head of the department or agency submitting the request.

23 (e) FUNDING.—(1) Subject to paragraph (2), a joint
24 sponsor of a Department of Energy national laboratory
25 or site under this section shall provide funds for work of

1 such national laboratory or site, as the case may be, under
 2 this section under the same terms and conditions as apply
 3 to the primary sponsor of such national laboratory under
 4 section 303(b)(1)(C) of the Federal Property and Admin-
 5 istrative Services Act of 1949 (41 U.S.C. 253(b)(1)(C))
 6 or of such site to the extent such section applies to such
 7 site as a federally funded research and development center
 8 by reason of subsection (b).

9 (2) The total amount of funds provided a national
 10 laboratory or site in a fiscal year under this subsection
 11 by joint sponsors other than the Department of Energy
 12 shall not exceed an amount equal to 25 percent of the total
 13 funds provided such national laboratory or site, as the case
 14 may be, in such fiscal year from all sources.

15 **Subtitle E—Other Matters**

16 **SEC. 3171. INDEMNIFICATION OF DEPARTMENT OF ENERGY** 17 **CONTRACTORS.**

18 Section 170d.(1)(A) of the Atomic Energy Act of
 19 1954 (42 U.S.C. 2210(d)(1)(A)) is amended by striking
 20 “until August 1, 2002,” and inserting “until August 1,
 21 2012”.

1 **SEC. 3172. WORKER HEALTH AND SAFETY RULES FOR DE-**
 2 **PARTMENT OF ENERGY FACILITIES.**

3 The Atomic Energy Act of 1954 is amended by in-
 4 serting after section 234B (42 U.S.C. 2282b) the fol-
 5 lowing:

6 **“SEC. 234C. WORKER HEALTH AND SAFETY RULES FOR DE-**
 7 **PARTMENT OF ENERGY NUCLEAR FACILI-**
 8 **TIES.**

9 “(a) PERSONS SUBJECT TO PENALTY.—

10 “(1) CIVIL PENALTY.—

11 “(A) IN GENERAL.—A person (or any sub-
 12 contractor or supplier of the person) who has
 13 entered into an agreement of indemnification
 14 under section 2210(d) (or any subcontractor or
 15 supplier of the person) that violates (or is the
 16 employer of a person that violates) Department
 17 of Energy Order No. 440.1A (1998), or any
 18 rule or regulation relating to industrial or con-
 19 struction health and safety promulgated by the
 20 Secretary of Energy (referred to in this section
 21 as the “Secretary”) after public notice and op-
 22 portunity for comment under section 553 of
 23 title 5, United States Code (commonly known
 24 as the ‘Administrative Procedure Act’), shall be
 25 subject to a civil penalty of not more than
 26 \$100,000 for each such violation.

1 “(B) CONTINUING VIOLATIONS.—If any
 2 violation under this subsection is a continuing
 3 violation, each day of the violation shall con-
 4 stitute a separate violation for the purpose of
 5 computing the civil penalty under subparagraph
 6 (A).

7 “(2) REGULATIONS.—

8 “(A) IN GENERAL.—Not later than 270
 9 days after the date of enactment of this section,
 10 the Secretary shall promulgate regulations for
 11 industrial and construction health and safety
 12 that incorporate the provisions and require-
 13 ments contained in Department of Energy
 14 Order No. 440.1A (1998).

15 “(B) EFFECTIVE DATE.—The regulations
 16 promulgated under subparagraph (A) shall take
 17 effect on the date that is 1 year after the pro-
 18 mulgation date of the regulations.

19 “(3) VARIANCES OR EXEMPTIONS.—

20 “(A) IN GENERAL.—The Secretary may
 21 provide in the regulations promulgated under
 22 paragraph (2) a procedure for granting
 23 variances or exemptions to the extent necessary
 24 to avoid serious impairment of the national se-
 25 curity of the United States.

1 “(B) DETERMINATION.—In determining
 2 whether to provide a variance or exemption
 3 under subparagraph (A), the Secretary of En-
 4 ergy shall assess—

5 “(i) the impact on national security of
 6 not providing a variance or exemption; and

7 “(ii) the benefits or detriments to
 8 worker health and safety of providing a
 9 variance or exemption.

10 “(C) PROCEDURE.—Before granting a
 11 variance or exemption, the Secretary of Energy
 12 shall—

13 “(i) notify affected employees;

14 “(ii) provide an opportunity for a
 15 hearing on the record; and

16 “(iii) notify Congress of any deter-
 17 mination to grant a variance at least 60
 18 days before the proposed effective date of
 19 the variance or exemption.

20 “(4) APPLICABILITY.—This subsection does not
 21 apply to any facility that is a component of, or any
 22 activity conducted under, the Naval Nuclear Propul-
 23 sion Program.

24 “(5) ENFORCEMENT GUIDANCE ON STRUC-
 25 TURES TO BE DISPOSED OF.—

1 “(A) IN GENERAL.—In enforcing the regu-
 2 lations under paragraph (2), the Secretary of
 3 Energy shall, on a case-by-case basis, evaluate
 4 whether a building, facility, structure, or im-
 5 provement of the Department of Energy that is
 6 permanently closed and that is expected to be
 7 demolished, or title to which is expected to be
 8 transferred to another entity for reuse, should
 9 undergo major retrofitting to comply with spe-
 10 cific general industry standards.

11 “(B) NO EFFECT ON HEALTH AND SAFETY
 12 ENFORCEMENT.—This subsection does not di-
 13 minish or otherwise affect—

14 “(i) the enforcement of any worker
 15 health and safety regulations under this
 16 section with respect to the surveillance and
 17 maintenance or decontamination, decom-
 18 missioning, or demolition of buildings, fa-
 19 cilities, structures, or improvements; or

20 “(ii) the application of any other law
 21 (including regulations), order, or contrac-
 22 tual obligation.

23 “(b) CONTRACT PENALTIES.—

24 “(1) IN GENERAL.—The Secretary shall include
 25 in each contract with a contractor of the Depart-

1 ment provisions that provide an appropriate reduc-
 2 tion in the fees or amounts paid to the contractor
 3 under the contract in the event of a violation by the
 4 contractor or contractor employee of any regulation
 5 or order relating to industrial or construction health
 6 and safety.

7 “(2) CONTENTS.—The provisions shall specify
 8 various degrees of violations and the amount of the
 9 reduction attributable to each degree of violation.

10 “(c) POWERS AND LIMITATIONS.—The powers and
 11 limitations applicable to the assessment of civil penalties
 12 under section 234A, except for subsection (d) of that sec-
 13 tion, shall apply to the assessment of civil penalties under
 14 this section.

15 “(d) TOTAL AMOUNT OF PENALTIES.—In the case
 16 of an entity described in subsection (d) of section 234A,
 17 the total amount of civil penalties under subsection (a)
 18 or under subsection (a) of section 234B in a fiscal year
 19 may not exceed the total amount of fees paid by the De-
 20 partment of Energy to that entity in that fiscal year.”.

21 **SEC. 3173. ONE-YEAR EXTENSION OF AUTHORITY OF DE-**
 22 **PARTMENT OF ENERGY TO PAY VOLUNTARY**
 23 **SEPARATION INCENTIVE PAYMENTS.**

24 (a) IN GENERAL.—Section 3161(a) of the National
 25 Defense Authorization Act for Fiscal Year 2000 (Public

1 Law 106–65; 5 U.S.C. 5597 note) is amended by striking
 2 “January 1, 2004” and inserting “January 1, 2005”.

3 (b) CONSTRUCTION.—The amendment made by sub-
 4 section (a) may be superseded by another provision of law
 5 that takes effect after the date of the enactment of this
 6 Act, and before January 1, 2004, establishing a uniform
 7 system for providing voluntary separation incentives (in-
 8 cluding a system for requiring approval of plans by the
 9 Office of Management and Budget) for employees of the
 10 Federal Government.

11 **SEC. 3174. SUPPORT FOR PUBLIC EDUCATION IN THE VI-**
 12 **CINITY OF LOS ALAMOS NATIONAL LABORA-**
 13 **TORY, NEW MEXICO.**

14 (a) SUPPORT FOR FISCAL YEAR 2003.—From
 15 amounts authorized to be appropriated to the Secretary
 16 of Energy by this title, \$6,900,000 shall be available for
 17 payment by the Secretary for fiscal year 2003 to the Los
 18 Alamos National Laboratory Foundation, a not-for-profit
 19 foundation chartered in accordance with section 3167(a)
 20 of the National Defense Authorization Act for Fiscal Year
 21 1998 (Public Law 105–85; 111 Stat. 2052).

22 (b) USE OF FUNDS.—The foundation referred to in
 23 subsection (a) shall—

1 (1) utilize funds provided under this section as
2 a contribution to the endowment fund for the foun-
3 dation; and

4 (2) use the income generated from investments
5 in the endowment fund that are attributable to the
6 payment made under this section to fund programs
7 to support the educational needs of children in the
8 public schools in the vicinity of Los Alamos National
9 Laboratory, New Mexico.

10 (c) REPEAL OF SUPERSEDED AUTHORITY AND
11 MODIFICATION OF AUTHORITY TO EXTEND CONTRACT.—

12 (1) Subsection (b) of section 3136 of the National Defense
13 Authorization Act for Fiscal Year 2002 (Public Law 107–
14 107; 115 Stat. 1368) is amended to read as follows:

15 “(b) SUPPORT FOR FISCAL YEARS 2003 THROUGH
16 2013.—Subject to the availability of appropriations, the
17 Secretary may provide for a contract extension through
18 fiscal year 2013 similar to the contract extension referred
19 to in subsection (a)(2).”.

20 (2) The amendment made by paragraph (1) shall
21 take effect on October 1, 2002.

1 **Subtitle F—Disposition of Weap-**
2 **ons-Usable Plutonium at Savan-**
3 **nah River, South Carolina**

4 **SEC. 3181. FINDINGS.**

5 Congress makes the following findings:

6 (1) In September 2000, the United States and
7 the Russian Federation signed a Plutonium Manage-
8 ment and Disposition Agreement by which each
9 agreed to dispose of 34 metric tons of weapons-
10 grade plutonium.

11 (2) The agreement with Russia is a significant
12 step toward safeguarding nuclear materials and pre-
13 venting their diversion to rogue states and terrorists.

14 (3) The Department of Energy plans to dispose
15 of 34 metric tons of weapons-grade plutonium in the
16 United States before the end of 2019 by converting
17 the plutonium to a mixed-oxide fuel to be used in
18 commercial nuclear power reactors.

19 (4) The Department has formulated a plan for
20 implementing the agreement with Russia through
21 construction of a mixed-oxide fuel fabrication facil-
22 ity, the so-called MOX facility, and a pit disassembly
23 and conversion facility at the Savannah River Site,
24 Aiken, South Carolina.

1 (5) The United States and the State of South
2 Carolina have a compelling interest in the safe,
3 proper, and efficient operation of the plutonium dis-
4 position facilities at the Savannah River Site. The
5 MOX facility will also be economically beneficial to
6 the State of South Carolina, and that economic ben-
7 efit will not be fully realized unless the MOX facility
8 is built.

9 (6) The State of South Carolina desires to en-
10 sure that all plutonium transferred to the State of
11 South Carolina is stored safely; that the full benefits
12 of the MOX facility are realized as soon as possible;
13 and, specifically, that all defense plutonium or de-
14 fense plutonium materials transferred to the Savan-
15 nah River Site either be processed or be removed ex-
16 peditiously.

17 **SEC. 3182. DISPOSITION OF WEAPONS-USABLE PLUTONIUM**
18 **AT SAVANNAH RIVER SITE.**

19 (a) PLAN FOR CONSTRUCTION AND OPERATION OF
20 MOX FACILITY.—(1) Not later than February 1, 2003,
21 the Secretary of Energy shall submit to Congress a plan
22 for the construction and operation of the MOX facility at
23 the Savannah River Site, Aiken, South Carolina.

24 (2) The plan under paragraph (1) shall include—

1 (A) a schedule for construction and operations
2 so as to achieve, as of January 1, 2009, and there-
3 after, the MOX production objective, and to produce
4 1 metric ton of mixed oxide fuel by December 31,
5 2009; and

6 (B) a schedule of operations of the MOX facil-
7 ity designed so that 34 metric tons of defense pluto-
8 nium and defense plutonium materials at the Savan-
9 nah River Site will be processed into mixed oxide
10 fuel by January 1, 2019.

11 (3)(A) Not later than February 15 each year, begin-
12 ning in 2004 and continuing for as long as the MOX facil-
13 ity is in use, the Secretary shall submit to Congress a re-
14 port on the implementation of the plan required by para-
15 graph (1).

16 (B) Each report under subparagraph (A) for years
17 before 2010 shall include—

18 (i) an assessment of compliance with the sched-
19 ules included with the plan under paragraph (2);
20 and

21 (ii) a certification by the Secretary whether or
22 not the MOX production objective can be met by
23 January 2009.

24 (C) Each report under subparagraph (A) for years
25 after 2009 shall—

1 (i) address whether the MOX production objec-
2 tive has been met; and

3 (ii) assess progress toward meeting the obliga-
4 tions of the United States under the Plutonium
5 Management and Disposition Agreement.

6 (D) For years after 2017, each report under subpara-
7 graph (A) shall also include an assessment of compliance
8 with the MOX production objective and, if not in compli-
9 ance, the plan of the Secretary for achieving one of the
10 following:

11 (i) Compliance with such objective.

12 (ii) Removal of all remaining defense plutonium
13 and defense plutonium materials from the State of
14 South Carolina.

15 (b) CORRECTIVE ACTIONS.—(1) If a report under
16 subsection (a)(3) indicates that construction or operation
17 of the MOX facility is behind the applicable schedule
18 under subsection (a)(2) by 12 months or more, the Sec-
19 retary shall submit to Congress, not later than August 15
20 of the year in which such report is submitted, a plan for
21 corrective actions to be implemented by the Secretary to
22 ensure that the MOX facility project is capable of meeting
23 the MOX production objective by January 1, 2009.

24 (2) If a plan is submitted under paragraph (1) in any
25 year after 2008, the plan shall include corrective actions

1 to be implemented by the Secretary to ensure that the
2 MOX production objective is met.

3 (3) Any plan for corrective actions under paragraph
4 (1) or (2) shall include established milestones under such
5 plan for achieving compliance with the MOX production
6 objective.

7 (4) If, before January 1, 2009, the Secretary deter-
8 mines that there is a substantial and material risk that
9 the MOX production objective will not be achieved by
10 2009 because of a failure to achieve milestones set forth
11 in the most recent corrective action plan under this sub-
12 section, the Secretary shall suspend further transfers of
13 defense plutonium and defense plutonium materials to be
14 processed by the MOX facility until such risk is addressed
15 and the Secretary certifies that the MOX production ob-
16 jective can be met by 2009.

17 (5) If, after January 1, 2009, the Secretary deter-
18 mines that the MOX production objective has not been
19 achieved because of a failure to achieve milestones set
20 forth in the most recent corrective action plan under this
21 subsection, the Secretary shall suspend further transfers
22 of defense plutonium and defense plutonium materials to
23 be processed by the MOX facility until the Secretary cer-
24 tifies that the MOX production objective can be met by
25 2009.

1 (6)(A) Upon making a determination under para-
2 graph (4) or (5), the Secretary shall submit to Congress
3 a report on the options for removing from the State of
4 South Carolina an amount of defense plutonium or de-
5 fense plutonium materials equal to the amount of defense
6 plutonium or defense plutonium materials transferred to
7 the State of South Carolina after April 15, 2002.

8 (B) Each report under subparagraph (A) shall in-
9 clude an analysis of each option set forth in the report,
10 including the cost and schedule for implementation of such
11 option, and any requirements under the National Environ-
12 mental Policy Act of 1969 (42 U.S.C. 4321 et seq.) relat-
13 ing to consideration or selection of such option.

14 (C) Upon submittal of a report under paragraph (A),
15 the Secretary shall commence any analysis that may be
16 required under the National Environmental Policy Act of
17 1969 in order to select among the options set forth in the
18 report.

19 (c) CONTINGENT REQUIREMENT FOR REMOVAL OF
20 PLUTONIUM AND MATERIALS FROM SAVANNAH RIVER
21 SITE.—If the MOX production objective is not achieved
22 as of January 1, 2009, the Secretary shall, consistent with
23 the National Environmental Policy Act of 1969 and other
24 applicable laws, remove from the State of South Carolina,
25 for storage or disposal elsewhere—

1 (1) not later than January 1, 2011, not less
2 than 1 metric ton of defense plutonium or defense
3 plutonium materials; and

4 (2) not later than January 1, 2017, an amount
5 of defense plutonium or defense plutonium materials
6 equal to the amount of defense plutonium or defense
7 plutonium materials transferred to the Savannah
8 River Site between April 15, 2002 and January 1,
9 2017, but not processed by the MOX facility.

10 (d) ECONOMIC AND IMPACT ASSISTANCE.—(1) If the
11 MOX production objective is not achieved as of January
12 1, 2011, the Secretary shall pay to the State of South
13 Carolina each year beginning on or after that date through
14 2016 for economic and impact assistance an amount equal
15 to \$1,000,000 per day until the later of—

16 (A) the passage of 100 days in such year;

17 (B) the MOX production objective is achieved
18 in such year; or

19 (C) the Secretary has removed from the State
20 of South Carolina in such year at least 1 metric ton
21 of defense plutonium or defense plutonium mate-
22 rials.

23 (2)(A) If the MOX production objective is not
24 achieved as of January 1, 2017, the Secretary shall pay
25 to the State of South Carolina each year beginning on or

1 after that date through 2024 for economic and impact as-
2 sistance an amount equal to \$1,000,000 per day until the
3 later of—

4 (i) the passage of 100 days in such year;

5 (ii) the MOX production objective is achieved in
6 such year; or

7 (iii) the Secretary has removed from the State
8 of South Carolina an amount of defense plutonium
9 or defense plutonium materials equal to the amount
10 of defense plutonium or defense plutonium materials
11 transferred to the Savannah River Site between
12 April 15, 2002 and January 1, 2017, but not proc-
13 essed by the MOX facility.

14 (B) Nothing in this paragraph may be construed to
15 terminate, supersede, or otherwise affect any other re-
16 quirements of this section.

17 (3) The Secretary shall make payments, if any, under
18 this subsection, from amounts authorized to be appro-
19 priated to the Department of Energy.

20 (4) If the State of South Carolina obtains an injunc-
21 tion that prohibits the Department from taking any action
22 necessary for the Department to meet any deadline speci-
23 fied by this subsection, that deadline shall be extended for
24 a period of time equal to the period of time during which
25 the injunction is in effect.

1 (e) FAILURE TO COMPLETE PLANNED DISPOSITION
2 PROGRAM.—If on July 1 each year beginning in 2020 and
3 continuing for as long as the MOX facility is in use, less
4 than 34 metric tons of defense plutonium or defense pluto-
5 nium materials have been processed by the MOX facility,
6 the Secretary shall submit to Congress a plan for—

7 (1) completing the processing of 34 metric tons
8 of defense plutonium and defense plutonium mate-
9 rial by the MOX facility; or

10 (2) removing from the State of South Carolina
11 an amount of defense plutonium or defense pluto-
12 nium materials equal to the amount of defense plu-
13 tonium or defense plutonium materials transferred
14 to the Savannah River Site after April 15, 2002, but
15 not processed by the MOX facility.

16 (f) REMOVAL OF MIXED-OXIDE FUEL UPON COM-
17 PLETION OF OPERATIONS OF MOX FACILITY.—If, one
18 year after the date on which operation of the MOX facility
19 permanently ceases any mixed-oxide fuel remains at the
20 Savannah River Site, the Secretary shall submit to
21 Congress—

22 (1) a report on when such fuel will be trans-
23 ferred for use in commercial nuclear reactors; or

24 (2) a plan for removing such fuel from the
25 State of South Carolina.

1 (g) DEFINITIONS.—In this section:

2 (1) MOX PRODUCTION OBJECTIVE.—The term
 3 “MOX production objective” means production at
 4 the MOX facility of mixed-oxide fuel from defense
 5 plutonium and defense plutonium materials at an
 6 average rate equivalent to not less than one metric
 7 ton of mixed-oxide fuel per year. The average rate
 8 shall be determined by measuring production at the
 9 MOX facility from the date the facility is declared
 10 operational to the Nuclear Regulatory Commission
 11 through the date of assessment.

12 (2) MOX FACILITY.—The term “MOX facility”
 13 means the mixed-oxide fuel fabrication facility at the
 14 Savannah River Site, Aiken, South Carolina.

15 (3) DEFENSE PLUTONIUM; DEFENSE PLUTO-
 16 NIUM MATERIALS.—The terms “defense-plutonium”
 17 and “defense plutonium materials” mean weapons-
 18 usable plutonium.

19 **SEC. 3183. STUDY OF FACILITIES FOR STORAGE OF PLUTO-**
 20 **NIUM AND PLUTONIUM MATERIALS AT SA-**
 21 **VANNAH RIVER SITE.**

22 (a) STUDY.—The Defense Nuclear Facilities Safety
 23 Board shall conduct a study of the adequacy of K-Area
 24 Materials Storage facility (KAMS), and related support
 25 facilities such as Building 235-F, at the Savannah River

1 Site, Aiken, South Carolina, for the storage of defense plu-
2 tonium and defense plutonium materials in connection
3 with the disposition program provided in section 3182 and
4 in connection with the amended Record of Decision of the
5 Department of Energy for fissile materials disposition.

6 (b) REPORT.—Not later than one year after the date
7 of enactment of this Act, the Defense Nuclear Facilities
8 Safety Board shall submit to Congress and the Secretary
9 of Energy a report on the study conducted under sub-
10 section (a).

11 (c) REPORT ELEMENTS.—The report under sub-
12 section (b) shall—

13 (1) address—

14 (A) the suitability of KAMS and related
15 support facilities for monitoring and observing
16 any defense plutonium or defense plutonium
17 materials stored in KAMS;

18 (B) the adequacy of the provisions made
19 by the Department for remote monitoring of
20 such defense plutonium and defense plutonium
21 materials by way of sensors and for handling of
22 retrieval of such defense plutonium and defense
23 plutonium materials; and

24 (C) the adequacy of KAMS should such
25 defense plutonium and defense plutonium mate-

1 rials continue to be stored at KAMS after
2 2019; and

3 (2) include such recommendations as the De-
4 fense Nuclear Facilities Safety Board considers ap-
5 propriate to enhance the safety, reliability, and
6 functionality of KAMS.

7 (d) REPORTS ON ACTIONS ON RECOMMENDA-
8 TIONS.—Not later than 6 months after the date on which
9 the report under subsection (b) is submitted to Congress,
10 and every year thereafter, the Secretary and the Board
11 shall each submit to Congress a report on the actions
12 taken by the Secretary in response to the recommenda-
13 tions, if any, included in the report.

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 2003, \$19,494,000 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.).

1 **SEC. 3202. AUTHORIZATION OF APPROPRIATIONS FOR THE**
2 **FORMERLY USED SITES REMEDIAL ACTION**
3 **PROGRAM OF THE CORPS OF ENGINEERS.**

4 There is hereby authorized to be appropriated for fis-
5 cal year 2003 for the Department of the Army,
6 \$140,000,000 for the formerly used sites remedial action
7 program of the Corps of Engineers.

Passed the Senate June 27, 2002.

Attest:

Secretary.

107TH CONGRESS
2D SESSION

S. 2517

AN ACT

To authorize appropriations for fiscal year 2003 for defense activities of the Department of Energy, and for other purposes.