

108TH CONGRESS
2D SESSION

H. R. 5161

To provide for counterproliferation measures.

IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 28, 2004

Mrs. TAUSCHER (for herself, Mr. SPRATT, and Mr. MEEHAN) introduced the following bill; which was referred to the Committee on International Relations

A BILL

To provide for counterproliferation measures.

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 “The 9–11 Commission
5 Combating Proliferation Implementation Act”.

1 **TITLE I—OFFICE FOR COM-**
2 **BATING THE PROLIFERATION**
3 **OF WEAPONS OF MASS DE-**
4 **STRUCTION**

5 **SEC. 101. OFFICE FOR COMBATING THE PROLIFERATION**
6 **OF WEAPONS OF MASS DESTRUCTION.**

7 (a) ESTABLISHMENT.—There is established within
8 the Executive Office of the President an office to be known
9 as the “Office for Combating the Proliferation of Weapons
10 of Mass Destruction” (in this title referred to as the “Of-
11 fice”).

12 (b) OFFICERS.—(1) The head of the Office shall be
13 the Director of the Office.

14 (2) There shall be a Deputy Director of the Office,
15 who shall—

16 (A) assist the Director in carrying out the re-
17 sponsibilities of the Director under this title; and

18 (B) serve as Acting Director in the absence of
19 the Director and during any vacancy in the office of
20 Director.

21 (3) The Director and Deputy Director—

22 (A) shall be appointed by the President, by and
23 with the advice and consent of the Senate; and

24 (B) shall serve at the pleasure of the President.

1 (4) No person shall serve as Director or Deputy Di-
2 rector while serving in any other position in the Federal
3 Government.

4 (c) RESPONSIBILITIES.—Subject to the direction and
5 control of the President, the responsibilities of the Direc-
6 tor shall include the following:

7 (1) To develop policies, goals, objectives, and
8 priorities for the United States for preventing the
9 proliferation of weapons of mass destruction.

10 (2) To serve as the principal advisor to the
11 President with respect to those policies, goals, objec-
12 tives, and priorities.

13 (3) To develop a comprehensive strategy for the
14 United States for the prevention of the proliferation
15 of weapons of mass destruction, to be known as the
16 “Strategy for Combating the Proliferation of Weap-
17 ons of Mass Destruction” (in this title referred to as
18 the “Strategy”).

19 (4) To coordinate, oversee, and evaluate the im-
20 plementation and execution of the Strategy by the
21 agencies of the Federal Government with respon-
22 sibilities for preventing the proliferation of weapons
23 of mass destruction.

24 (5) To direct the development of comprehensive
25 annual budgets submitted under section 1105(a) of

1 title 31, United States Code, for the programs and
2 activities under the Strategy.

3 (6) To certify to the President, prior to the sub-
4 mission to Congress of each annual budget under
5 that section, whether the budget for each element of
6 preventing the proliferation of weapons of mass de-
7 struction is consistent with and adequate for car-
8 rying out the Strategy.

9 (7) To carry out any other responsibilities relat-
10 ing to development, coordination, funding, and im-
11 plementation of United States policy on the preven-
12 tion of the proliferation of weapons of mass destruc-
13 tion that the President considers appropriate.

14 (d) AUTHORITIES OF THE DIRECTOR.—In carrying
15 out subsection (c), the Director shall have authority to—

16 (1) develop and present to the President annual
17 unified budgets for the prevention of the prolifera-
18 tion of weapons of mass destruction, including the
19 authorities to—

20 (A) provide guidance on the development
21 of annual budgets for each element of the pre-
22 vention of the proliferation of weapons of mass
23 destruction;

24 (B) direct, coordinate, and modify the an-
25 nual budgets of the elements of the prevention

1 of the proliferation of weapons of mass destruc-
2 tion, in consultation with the heads of those ele-
3 ments; and

4 (C) approve the budget of each element of
5 the prevention of the proliferation of weapons of
6 mass destruction before that budget may be
7 provided to the President for transmission to
8 the Congress;

9 (2) transfer between accounts and agencies
10 funds appropriated and associated resources avail-
11 able for the prevention of the proliferation of weap-
12 ons of mass destruction and detail personnel when
13 the Director makes a determination that doing so is
14 necessary in order to—

15 (A) respond to an emergent risk of pro-
16 liferation;

17 (B) eliminate duplication of effort; or

18 (C) significantly increase programmatic ef-
19 ficiency;

20 (3) select, appoint, employ, and fix compensa-
21 tion of such officers and employees of the Office as
22 may be necessary to carry out the functions of the
23 Office;

24 (4) subject to subsection (e)(3), request the
25 head of a department or agency, or program of the

1 Federal Government to place department, agency, or
2 program personnel who are engaged in activities in-
3 volving the prevention of the proliferation of weap-
4 ons of mass destruction on temporary detail to an-
5 other department, agency, or program in order to
6 implement the Strategy, and the head of the depart-
7 ment or agency shall comply with such a request;

8 (5) use for administrative purposes, on a reim-
9 bursable basis, the available services, equipment,
10 personnel, and facilities of Federal agencies;

11 (6) procure the services of experts and consult-
12 ants in accordance with section 3109 of title 5,
13 United States Code, relating to appointments in the
14 Federal Service, at rates of compensation for indi-
15 viduals not to exceed the daily equivalent of the rate
16 of pay payable under level IV of the Executive
17 Schedule under section 5311 of that title;

18 (7) use the mails in the same manner as any
19 other department or agency of the executive branch;
20 and

21 (8) monitor implementation of the Strategy, in-
22 cluding—

23 (A) conducting program and performance
24 audits and evaluations; and

1 (B) requesting assistance from the Inspec-
2 tor General of the relevant agency in such au-
3 dits and evaluations.

4 (e) PERSONNEL DETAILED TO OFFICE.—(1) Not-
5 withstanding any provision of chapter 43 of title 5, United
6 States Code, the Director shall perform the evaluation of
7 the performance of any employee detailed to the Office for
8 purposes of the applicable performance appraisal system
9 established under that chapter for any rating period, or
10 part thereof, that the employee is detailed to the Office.

11 (2)(A) Notwithstanding any other provision of law,
12 the Director may provide periodic bonus payments to any
13 employee detailed to the Office.

14 (B) An amount paid under this paragraph to an em-
15 ployee for any period—

16 (i) shall not be greater than 20 percent of the
17 basic pay paid or payable to such employee for such
18 period; and

19 (ii) shall be in addition to the basic pay of such
20 employee.

21 (C) The aggregate amount paid during any fiscal
22 year to an employee detailed to the Office as basic pay,
23 awards, bonuses, and other compensation shall not exceed
24 the annual rate payable at the end of such fiscal year for
25 positions at level III of the Executive Schedule.

1 (3) The maximum number of personnel who may be
2 detailed to another department or agency (including the
3 office) under subsection (d)(1) during any fiscal year is—

4 (A) for the Department of Defense, 5;

5 (B) for the Department of Energy, 5;

6 (C) for the Department of State, 5; and

7 (D) for any other department or agency, 2.

8 (4) A transfer or detail under paragraph (1)(A) shall
9 expire on the last day of the fiscal year after the fiscal
10 year in which it is ordered by the Director unless extended
11 by law or by an official having authority to extend it fur-
12 ther.

13 (f) REPORT ON STRATEGIC PLAN.—(1) Not later
14 than June 1, 2005, the Director shall submit to Congress
15 the Strategy developed under subsection (c)(3), together
16 with any recommendations of the Director for legislative
17 changes that the Director considers appropriate with re-
18 spect to either the Strategy and its implementation or the
19 Office.

20 (2) Not later than December 31 of each year after
21 2004, the Director shall submit to the Congress an up-
22 dated Strategy and any such recommendations.

23 (g) GLOBAL COALITION.—(1) The Director shall de-
24 velop the Strategy and, in consultation with the Secretary
25 of State, carry out the programs for which the Director

1 is responsible in coordination with appropriate officials of
2 the foreign governments concerned.

3 (2) In consultation with the Secretary of State, the
4 Director shall seek to develop and provide leadership for
5 a coalition of United States and foreign governments com-
6 mitted to achieving the prevention of the proliferation of
7 weapons of mass destruction through programs similar to
8 those specified in section 103.

9 (h) OVERSIGHT BY CONGRESS.—The location of the
10 Office in the Executive Office of the President shall not
11 be construed as affecting access by Congress, or any com-
12 mittee of Congress, to—

13 (1) any information, document, record, or paper
14 in the possession of the Office or any study con-
15 ducted by or at the direction of the Director; or

16 (2) any personnel of the Office, including the
17 Director.

18 (i) PAY OF DIRECTOR AND OF DEPUTY DIRECTOR.—
19 Chapter 53 of title 5, United States Code, is amended—

20 (1) in section 5312, by inserting after the item
21 relating to the Chairman, Board of Governors of the
22 Federal Reserve System the following new item:

23 “Director of the Office for Combating the
24 Proliferation of Weapons of Mass Destruc-
25 tion.”.

1 (2) in section 5313, by inserting after the item
2 relating to the Under Secretary for Transportation
3 the following new item:

4 “Deputy Director of the Office for Com-
5 bating the Proliferation of Weapons of Mass
6 Destruction.”.

7 **SEC. 102. REQUEST FOR CORRESPONDING RUSSIAN DIREC-**
8 **TOR.**

9 It is the sense of the Congress that, as soon as prac-
10 tical, the President should personally request the Presi-
11 dent of the Russian Federation to designate an official of
12 the Russian Federation having authorities and responsibil-
13 ities for the prevention of the proliferation of weapons of
14 mass destruction commensurate with those of the Director
15 and with whom the Director should coordinate with re-
16 spect to the planning and implementation in the Russian
17 Federation of activities having the purpose of securing
18 weapons of mass destruction.

19 **SEC. 103. SCOPE.**

20 In this title:

21 (1) The term “prevention of the proliferation of
22 weapons of mass destruction” includes activities
23 under—

24 (A) the programs specified in section
25 1501(b) of the National Defense Authorization

1 Act for Fiscal Year 1997 (Public Law 104–201;
2 110 Stat. 2731; 50 U.S.C. 2362 note);

3 (B) the programs for which appropriations
4 are authorized by section 3101(a)(2) of the Bob
5 Stump National Defense Authorization Act for
6 Fiscal Year 2003 (Public Law 107–314; 116
7 Stat. 2458);

8 (C) programs authorized by section 504 of
9 the Freedom for Russia and Emerging Eur-
10 asian Democracies and Open Markets Support
11 Act of 1992 (the FREEDOM Support Act) (22
12 U.S.C. 5354) and programs authorized by sec-
13 tion 1412 of the Former Soviet Union Demili-
14 tarization Act of 1992 (22 U.S.C. 5902); and

15 (D) a program of any agency of the Fed-
16 eral Government having a purpose similar to
17 that of any of the programs identified in sub-
18 paragraphs (A) through (C), as designated by
19 the Director and the head of the agency.

20 (2) The term “weapons of mass destruction”
21 means chemical, biological, and nuclear weapons,
22 and chemical, biological, and nuclear materials that
23 can be used in the manufacture of such weapons.

1 **TITLE II—ACCELERATION OF**
2 **REMOVAL AND SECURITY OF**
3 **FISSILE MATERIALS**

4 **SEC. 201. ACCELERATION OF REMOVAL OR SECURITY OF**
5 **FISSILE MATERIALS, RADIOLOGICAL MATE-**
6 **RIALS, AND RELATED EQUIPMENT AT VUL-**
7 **NERABLE SITES WORLDWIDE.**

8 (a) SENSE OF CONGRESS.—(1) It is the sense of Con-
9 gress that the security, including the rapid removal or se-
10 cure storage, of high-risk, proliferation-attractive fissile
11 materials, radiological materials, and related equipment at
12 vulnerable sites worldwide should be a top priority among
13 the activities to achieve the national security of the United
14 States.

15 (2) It is the sense of Congress that the President may
16 establish in the Department of Energy a task force to be
17 known as the Task Force on Nuclear Materials to carry
18 out the program authorized by subsection (b).

19 (b) PROGRAM AUTHORIZED.—The Secretary of En-
20 ergy may carry out a program to undertake an acceler-
21 ated, comprehensive worldwide effort to mitigate the
22 threats posed by high-risk, proliferation-attractive fissile
23 materials, radiological materials, and related equipment
24 located at sites potentially vulnerable to theft or diversion.

1 (c) PROGRAM ELEMENTS.—(1) Activities under the
2 program under subsection (b) may include the following:

3 (A) Accelerated efforts to secure, remove, or
4 eliminate proliferation-attractive fissile materials or
5 radiological materials in research reactors, other re-
6 actors, and other facilities worldwide.

7 (B) Arrangements for the secure shipment of
8 proliferation-attractive fissile materials, radiological
9 materials, and related equipment to other countries
10 willing to accept such materials and equipment, or
11 to the United States if such countries cannot be
12 identified, and the provision of secure storage or dis-
13 position of such materials and equipment following
14 shipment.

15 (C) The transportation of proliferation-attractive
16 fissile materials, radiological materials, and re-
17 lated equipment from sites identified as proliferation
18 risks to secure facilities in other countries or in the
19 United States.

20 (D) The processing and packaging of prolifera-
21 tion-attractive fissile materials, radiological mate-
22 rials, and related equipment in accordance with re-
23 quired standards for transport, storage, and disposi-
24 tion.

1 (E) The provision of interim security upgrades
2 for vulnerable, proliferation-attractive fissile mate-
3 rials and radiological materials and related equip-
4 ment pending their removal from their current sites.

5 (F) The utilization of funds to upgrade security
6 and accounting at sites where proliferation-attractive
7 fissile materials or radiological materials will remain
8 for an extended period of time in order to ensure
9 that such materials are secure against plausible po-
10 tential threats and will remain so in the future.

11 (G) The management of proliferation-attractive
12 fissile materials, radiological materials, and related
13 equipment at secure facilities.

14 (H) Actions to ensure that security, including
15 security upgrades at sites and facilities for the stor-
16 age or disposition of proliferation-attractive fissile
17 materials, radiological materials, and related equip-
18 ment, continues to function as intended.

19 (I) The provision of technical support to the
20 International Atomic Energy Agency (IAEA), other
21 countries, and other entities to facilitate removal of,
22 and security upgrades to facilities that contain, pro-
23 liferation-attractive fissile materials, radiological ma-
24 terials, and related equipment worldwide.

1 (J) The development of alternative fuels and ir-
2 radiation targets based on low-enriched uranium to
3 convert research or other reactors fueled by highly-
4 enriched uranium to such alternative fuels, as well
5 as the conversion of reactors and irradiation targets
6 employing highly-enriched uranium to employment
7 of such alternative fuels and targets.

8 (K) Accelerated actions for the blend down of
9 highly-enriched uranium to low-enriched uranium.

10 (L) The provision of assistance in the closure
11 and decommissioning of sites identified as presenting
12 risks of proliferation of proliferation-attractive fissile
13 materials, radiological materials, and related equip-
14 ment.

15 (M) Programs to—

16 (i) assist in the placement of employees
17 displaced as a result of actions pursuant to the
18 program in enterprises not representing a pro-
19 liferation threat; and

20 (ii) convert sites identified as presenting
21 risks of proliferation regarding proliferation-at-
22 tractive fissile materials, radiological materials,
23 and related equipment to purposes not rep-
24 resenting a proliferation threat to the extent
25 necessary to eliminate the proliferation threat.

1 (2) The Secretary of Energy shall, in coordination
2 with the Secretary of State, carry out the program in con-
3 sultation with, and with the assistance of, appropriate de-
4 partments, agencies, and other entities of the United
5 States Government.

6 (3) The Secretary of Energy shall, with the concur-
7 rence of the Secretary of State, carry out activities under
8 the program in collaboration with such foreign govern-
9 ments, non-governmental organizations, and other inter-
10 national entities as the Secretary of Energy considers ap-
11 propriate for the program.

12 (d) REPORTS.—(1) Not later than March 15, 2005,
13 the Secretary of Energy shall submit to Congress a classi-
14 fied interim report on the program under subsection (b).

15 (2) Not later than January 1, 2006, the Secretary
16 shall submit to Congress a classified final report on the
17 program under subsection (b) that includes the following:

18 (A) A survey by the Secretary of the facilities
19 and sites worldwide that contain proliferation-attract-
20 tive fissile materials, radiological materials, or re-
21 lated equipment.

22 (B) A list of sites determined by the Secretary
23 to be of the highest priority, taking into account risk
24 of theft from such sites, for removal or security of
25 proliferation-attractive fissile materials, radiological

1 materials, or related equipment, organized by level of
2 priority.

3 (C) A plan, including activities under the pro-
4 gram under this section, for the removal, security, or
5 both of proliferation-attractive fissile materials, radi-
6 ological materials, or related equipment at vulner-
7 able facilities and sites worldwide, including measur-
8 able milestones, metrics, and estimated costs for the
9 implementation of the plan.

10 (3) A summary of each report under this subsection
11 shall also be submitted to Congress in unclassified form.

12 (e) FUNDING.—

13 (1) IN GENERAL.—Amounts authorized to be
14 appropriated to the Secretary of Energy for defense
15 nuclear nonproliferation activities shall be available
16 for purposes of the program under this section.

17 (2) ADDITIONAL FUNDING.—(A) It is the sense
18 of Congress that the Secretary of Energy should use
19 funds for the program under this section in addition
20 to the funds made available under paragraph (1).

21 (B) Not later than 60 days after the date of en-
22 actment of this Act, the Secretary of Energy should
23 submit a supplemental budget request to Congress
24 for fiscal year 2005 outlining additional funds need-

1 ed to address the program elements set forth in sub-
2 section (c).

3 (f) DEFINITIONS.—In this section:

4 (1) The term “fissile materials” means pluto-
5 nium, highly-enriched uranium, or other material ca-
6 pable of sustaining an explosive nuclear chain reac-
7 tion, including irradiated items containing such ma-
8 terials if the radiation field from such items is not
9 sufficient to prevent the theft or misuse of such
10 items.

11 (2) The term “radiological materials” includes
12 Americium-241, Californium-252, Cesium-137, Co-
13 balt-60, Iridium-192, Plutonium-238, Radium-226
14 and Strontium-90, Curium-244, Strontium-90, and
15 irradiated items containing such materials, or other
16 materials designated by the Secretary of Energy for
17 purposes of this paragraph.

18 (3) The term “related equipment” includes
19 equipment useful for enrichment of uranium in the
20 isotope 235 and for extraction of fissile materials
21 from irradiated fuel rods and other equipment des-
22 ignated by the Secretary of Energy for purposes of
23 this section.

1 (4) The term “highly-enriched uranium” means
2 uranium enriched to or above 20 percent in isotope
3 235.

4 (5) The term “low-enriched uranium” means
5 uranium enriched below 20 percent in isotope 235.

6 (6) The term “proliferation-attractive”, in the
7 case of fissile materials and radiological materials,
8 means quantities and types of such materials that
9 are determined by the Secretary of Energy to
10 present a significant risk to the national security of
11 the United States if diverted to a use relating to
12 proliferation.

13 **TITLE III—EXPANSION OF PRO-**
14 **LIFERATION SECURITY INI-**
15 **TIATIVE**

16 **SEC. 301. SENSE OF CONGRESS.**

17 It is the sense of Congress that—

18 (1) the President should strive to expand and
19 strengthen the Proliferation Security Initiative an-
20 nounced by the President on May 31, 2003, placing
21 particular emphasis on including countries outside of
22 NATO; and

23 (2) the United States should engage the United
24 Nations to develop a Security Council Resolution to
25 authorize the Proliferation Security Initiative under

1 international law, including by providing legal au-
2 thority to stop shipments of weapons of mass de-
3 struction, their delivery systems, and related mate-
4 rials.

5 **SEC. 302. AUTHORIZATION OF APPROPRIATIONS.**

6 There are authorized to be appropriated for fiscal
7 year 2005, \$50,000,000 to conduct joint training exercises
8 regarding interdiction of weapons of mass destruction
9 under the Proliferation Security Initiative. Particular em-
10 phasis should be given to allocating money from this
11 total—

12 (1) to invite other countries that do not partici-
13 pate in the Proliferation Security Initiative to ob-
14 serve the joint training exercises; and

15 (2) to conduct training exercises with countries
16 that openly join the Proliferation Security Initiative
17 after the date of enactment of this Act.

18 **TITLE IV—COOPERATIVE**
19 **THREAT REDUCTION PROGRAMS**

20 **SEC. 401. AUTHORIZATION OF APPROPRIATIONS.**

21 There are authorized to be appropriated for Coopera-
22 tive Threat Reduction programs not less than—

- 23 (1) \$450,000,000 for fiscal year 2005;
24 (2) \$500,000,000 for fiscal year 2006;
25 (3) \$550,000,000 for fiscal year 2007;

- 1 (4) \$600,000,000 for fiscal year 2008;
2 (5) \$650,000,000 for fiscal year 2009; and
3 (6) \$700,000,000 for fiscal year 2010.

4 **SEC. 402. PERMANENT WAIVER AUTHORITY FOR CHEMICAL**
5 **WEAPONS DESTRUCTION FACILITY IN RUS-**
6 **SIA.**

7 Section 1305 of the National Defense Authorization
8 Act for Fiscal Year 2000 shall not apply to the obligation
9 and expenditure of funds during a fiscal year for the plan-
10 ning, design, or construction of a chemical weapons de-
11 struction facility in the Russian Federation if the Presi-
12 dent submits to Congress a written certification with re-
13 spect to that fiscal year that includes—

14 (1) a statement as to why the waiver of the
15 conditions during the fiscal year covered by such
16 certification is consistent with the national security
17 interests of the United States; and

18 (2) a plan to promote a full and accurate dislo-
19 sure by the Russian Federation regarding the size,
20 content, status, and location of its chemical weapons
21 stockpile.

1 **SEC. 403. REMOVAL OF FUNDING LIMITATION ON ACTIVI-**
2 **TIES OUTSIDE THE FORMER SOVIET UNION.**

3 Section 1308(c) in the National Defense Authoriza-
4 tion Act for Fiscal Year 2004 (Public Law 108–135; 22
5 U.S.C. 5963(c)) is repealed.

6 **SEC. 404. LIABILITY REPORT.**

7 Not later than April 1, 2005, and every 6 months
8 thereafter, the President shall submit to Congress a report
9 identifying liability concerns regarding, and impediments
10 to, the renegotiation of the Cooperative Threat Reduction
11 umbrella agreement and ongoing negotiations for the im-
12 plementation of the Plutonium Disposition, Nuclear Cit-
13 ies, and other cooperative nonproliferation programs. The
14 report shall also outline a plan to address and resolve such
15 concerns and impediments.

16 **SEC. 405. DEFINITION.**

17 In this title, the term “Cooperative Threat Reduction
18 programs” means the programs specified in section
19 1501(b) of the National Defense Authorization Act for
20 Fiscal Year 1997 (Public Law 104–201; 110 Stat. 2731;
21 50 U.S.C. 2362 note).

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