

Calendar No. 188

110TH CONGRESS
1ST SESSION**S. 1550**

To authorize appropriations for fiscal year 2008 for defense activities of the Department of Energy, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JUNE 5, 2007

Mr. LEVIN, from the Committee on Armed Services, reported the following original bill; which was read twice and placed on the calendar

A BILL

To authorize appropriations for fiscal year 2008 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 2008”.

6 **SEC. 2. TABLE OF CONTENTS.**

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

Sec. 1. Short title.

Sec. 2. Table of contents.

Sec. 3. Congressional defense committees.

TITLE XXXI—DEPARTMENT OF ENERGY NATIONAL SECURITY
PROGRAMS

Subtitle A—National Security Programs Authorizations

- Sec. 3101. National Nuclear Security Administration.
- Sec. 3102. Defense environmental cleanup.
- Sec. 3103. Other defense activities.
- Sec. 3104. Defense nuclear waste disposal.

Subtitle B—Program Authorizations, Restrictions, and Limitations

- Sec. 3111. Reliable Replacement Warhead program.
- Sec. 3112. Limitation on availability of funds for Fissile Materials Disposition program.
- Sec. 3113. Modification of limitations on availability of funds for Waste Treatment and Immobilization Plant.

Subtitle C—Other Matters

- Sec. 3121. Nuclear test readiness.
- Sec. 3122. Sense of Congress on the nuclear nonproliferation policy of the United States and the Reliable Replacement Warhead program.
- Sec. 3123. Report on status of environmental management initiatives to accelerate the reduction of environmental risks and challenges posed by the legacy of the Cold War.
- Sec. 3124. Comptroller General report on Department of Energy protective force management.
- Sec. 3125. Technical amendments.

TITLE XXXII—DEFENSE NUCLEAR FACILITIES SAFETY BOARD

- Sec. 3201. Authorization.

1 SEC. 3. CONGRESSIONAL DEFENSE COMMITTEES.

2 For purposes of this Act, the term “congressional de-
3 fense committees” has the meaning given that term in sec-
4 tion 101(a)(16) of title 10, United States Code.

1 **TITLE XXXI—DEPARTMENT OF**
2 **ENERGY NATIONAL SECURITY**
3 **PROGRAMS**

4 **Subtitle A—National Security**
5 **Programs Authorizations**

6 **SEC. 3101. NATIONAL NUCLEAR SECURITY ADMINISTRA-**
7 **TION.**

8 (a) **AUTHORIZATION OF APPROPRIATIONS.**—Funds
9 are hereby authorized to be appropriated to the Depart-
10 ment of Energy for fiscal year 2008 for the activities of
11 the National Nuclear Security Administration in carrying
12 out programs necessary for national security in the
13 amount of \$9,539,693,000, to be allocated as follows:

14 (1) For weapons activities, \$6,472,172,000.

15 (2) For defense nuclear nonproliferation activi-
16 ties, \$1,809,646,000.

17 (3) For naval reactors, \$808,219,000.

18 (4) For the Office of the Administrator for Nu-
19 clear Security, \$399,656,000.

20 (5) For the International Atomic Energy Agen-
21 cy Nuclear Fuel Bank, \$50,000,000.

22 (b) **AUTHORIZATION OF NEW PLANT PROJECTS.**—
23 From funds referred to in subsection (a) that are available
24 for carrying out plant projects, the Secretary of Energy

1 may carry out new plant projects for the National Nuclear
2 Security Administration as follows:

3 (1) For readiness in technical base and facili-
4 ties, the following new plant projects:

5 Project 08–D–801, High pressure fire
6 loop, Pantex Plant, Amarillo, Texas,
7 \$7,000,000.

8 Project 08–D–802, High explosive pressing
9 facility, Pantex Plant, Amarillo, Texas,
10 \$25,300,000.

11 Project 08–D–804, Technical Area 55 re-
12 investment project, Los Alamos National Lab-
13 oratory, Los Alamos, New Mexico, \$6,000,000.

14 (2) For facilities and infrastructure recapital-
15 ization, the following new plant projects:

16 Project 08–D–601, Mercury highway, Ne-
17 vada Test Site, Nevada, \$7,800,000.

18 Project 08–D–602, Potable water system
19 upgrades, Y–12 Plant, Oak Ridge, Tennessee,
20 \$22,500,000.

21 (3) For safeguards and security, the following
22 new plant project:

23 Project 08–D–701, Nuclear materials safe-
24 guards and security upgrade, Los Alamos Na-

1 tional Laboratory, Los Alamos, New Mexico,
2 \$49,496,000.

3 (4) For naval reactors, the following new plant
4 projects:

5 Project 08–D–901, Shipping and receiving
6 and warehouse complex, Bettis Atomic Power
7 Laboratory, West Mifflin, Pennsylvania,
8 \$9,000,000.

9 Project 08–D–190, Project engineering
10 and design, Expanded Core Facility M–290 Re-
11 covering Discharge Station, Naval Reactors Fa-
12 cility, Idaho Falls, Idaho, \$550,000.

13 **SEC. 3102. DEFENSE ENVIRONMENTAL CLEANUP.**

14 (a) AUTHORIZATION OF APPROPRIATIONS.—Funds
15 are hereby authorized to be appropriated to the Depart-
16 ment of Energy for fiscal year 2008 for defense environ-
17 mental cleanup activities in carrying out programs nec-
18 essary for national security in the amount of
19 \$5,410,905,000.

20 (b) AUTHORIZATION FOR NEW PLANT PROJECT.—
21 From funds referred to in subsection (a) that are available
22 for carrying out plant projects, the Secretary of Energy
23 may carry out, for defense environmental cleanup activi-
24 ties, the following new plant project:

1 Project 08–D–414, Project engineering and de-
2 sign, Plutonium Vitrification Facility, various loca-
3 tions, \$15,000,000.

4 **SEC. 3103. OTHER DEFENSE ACTIVITIES.**

5 Funds are hereby authorized to be appropriated to
6 the Department of Energy for fiscal year 2008 for other
7 defense activities in carrying out programs necessary for
8 national security in the amount of \$663,074,000.

9 **SEC. 3104. DEFENSE NUCLEAR WASTE DISPOSAL.**

10 Funds are hereby authorized to be appropriated to
11 the Department of Energy for fiscal year 2008 for defense
12 nuclear waste disposal for payment to the Nuclear Waste
13 Fund established in section 302(c) of the Nuclear Waste
14 Policy Act of 1982 (42 U.S.C. 10222(c)) in the amount
15 of \$242,046,000.

16 **Subtitle B—Program Authoriza-**
17 **tions, Restrictions, and Limita-**
18 **tions**

19 **SEC. 3111. RELIABLE REPLACEMENT WARHEAD PROGRAM.**

20 (a) **LIMITATION ON AVAILABILITY OF FUNDS.**—Of
21 the amount authorized to be appropriated under section
22 3101(a)(1) for weapons activities for fiscal year 2008, not
23 more than \$195,069,000 may be obligated or expended for
24 the Reliable Replacement Warhead program under section

1 4204a of the Atomic Energy Defense Act (50 U.S.C.
2 2524a).

3 (b) PROHIBITION ON AVAILABILITY OF FUNDS FOR
4 CERTAIN ACTIVITIES.—No funds referred to in subsection
5 (a) may be obligated or expended for activities under the
6 Reliable Replacement Warhead program beyond phase 2A
7 activities.

8 **SEC. 3112. LIMITATION ON AVAILABILITY OF FUNDS FOR**
9 **FISSILE MATERIALS DISPOSITION PROGRAM.**

10 (a) LIMITATION PENDING REPORT ON USE OF PRIOR
11 FISCAL YEAR FUNDS.—No fiscal year 2008 Fissile Mate-
12 rials Disposition program funds may be obligated or ex-
13 pended for the Fissile Materials Disposition program until
14 the Secretary of Energy, in consultation with the Adminis-
15 trator for Nuclear Security, submits to the congressional
16 defense committees a report setting forth a plan for obli-
17 gating and expending funds made available for that pro-
18 gram in fiscal years before fiscal year 2008 that remain
19 available for obligation or expenditure as of October 1,
20 2007.

21 (b) LIMITATION PENDING CERTIFICATION ON USE
22 OF CURRENT FISCAL YEAR FUNDS.—

23 (1) IN GENERAL.—Within fiscal year 2008
24 Fissile Materials Disposition program funds, the ag-
25 gregate amount that may be obligated for the Fissile

1 Materials Disposition program may not exceed such
2 amount as the Secretary, in consultation with the
3 Administrator, certifies to the congressional defense
4 committees will be obligated for that program in fis-
5 cal years 2008 and 2009.

6 (2) AVAILABILITY OF UNUTILIZED FUNDS AB-
7 SENT CERTIFICATION.—If the Secretary does not
8 make a certification under paragraph (1), fiscal year
9 2008 Fissile Materials Disposition program funds
10 shall not be available for the Fissile Materials Dis-
11 position program, but shall be available instead for
12 any defense nuclear nonproliferation activities (other
13 than the Fissile Materials Disposition program) for
14 which amounts are authorized to be appropriated by
15 section 3101(a)(2).

16 (3) AVAILABILITY OF UNUTILIZED FUNDS
17 UNDER CERTIFICATION OF PARTIAL USE.—If the ag-
18 gregate amount of funds certified under paragraph
19 (1) as to be obligated for the Fissile Materials Dis-
20 position program in fiscal years 2008 and 2009 is
21 less than the amount of the fiscal year 2008 Fissile
22 Materials Disposition program funds, an amount
23 within fiscal year 2008 Fissile Materials Disposition
24 program funds that is equal to the difference be-
25 tween the amount of fiscal year 2008 Fissile Mate-

1 rials Disposition program funds and such aggregate
2 amount shall not be available for the Fissile Mate-
3 rials Disposition program, but shall be available in-
4 stead for any defense nuclear nonproliferation activi-
5 ties (other than the Fissile Materials Disposition
6 program) for which amounts are authorized to be
7 appropriated by section 3101(a)(2).

8 (c) FISCAL YEAR 2008 FISSILE MATERIALS DISPOSI-
9 TION PROGRAM FUNDS DEFINED.—In this section, the
10 term “fiscal year 2008 Fissile Materials Disposition pro-
11 gram funds” means amounts authorized to be appro-
12 priated by section 3101(a)(2) and available for the Fissile
13 Materials Disposition program.

14 **SEC. 3113. MODIFICATION OF LIMITATIONS ON AVAIL-**
15 **ABILITY OF FUNDS FOR WASTE TREATMENT**
16 **AND IMMOBILIZATION PLANT.**

17 Paragraph (2) of section 3120(a) of the John Warner
18 National Defense Authorization Act for Fiscal Year 2007
19 (Public Law 109–364; 120 Stat. 2510) is amended—

20 (1) by striking “the Defense Contract Manage-
21 ment Agency has recommended for acceptance” and
22 inserting “an independent entity has reviewed”; and

23 (2) by inserting “and that the system has been
24 certified by the Secretary for use by a construction
25 contractor at the Waste Treatment and Immobiliza-

1 tion Plant” after “Waste Treatment and Immo-
2 bilization Plant”.

3 **Subtitle C—Other Matters**

4 **SEC. 3121. NUCLEAR TEST READINESS.**

5 (a) REPEAL OF REQUIREMENTS ON READINESS POS-
6 TURE.—Section 3113 of the National Defense Authoriza-
7 tion Act for Fiscal Year 2004 (Public Law 108–136; 117
8 Stat. 1743; 50 U.S.C. 2528a) is repealed.

9 (b) REPORTS ON NUCLEAR TEST READINESS POS-
10 TURES.—

11 (1) IN GENERAL.—Section 4208 of the Atomic
12 Energy Defense Act (50 U.S.C. 2528) is amended to
13 read as follows:

14 **“SEC. 4208. REPORTS ON NUCLEAR TEST READINESS.**

15 “(a) IN GENERAL.—Not later than March 1, 2009,
16 and every odd-numbered year thereafter, the Secretary of
17 Energy shall submit to the congressional defense commit-
18 tees a report on the nuclear test readiness of the United
19 States.

20 “(b) ELEMENTS.—Each report under subsection (a)
21 shall include, current as of the date of such report, the
22 following:

23 “(1) An estimate of the period of time that
24 would be necessary for the Secretary of Energy to
25 conduct an underground test of a nuclear weapon

1 once directed by the President to conduct such a
2 test.

3 “(2) A description of the level of test readiness
4 that the Secretary of Energy, in consultation with
5 the Secretary of Defense, determines to be appro-
6 priate.

7 “(3) A list and description of the workforce
8 skills and capabilities that are essential to carrying
9 out an underground nuclear test at the Nevada Test
10 Site.

11 “(4) A list and description of the infrastructure
12 and physical plant that are essential to carrying out
13 an underground nuclear test at the Nevada Test
14 Site.

15 “(5) An assessment of the readiness status of
16 the skills and capabilities described in paragraph (3)
17 and the infrastructure and physical plant described
18 in paragraph (4).

19 “(c) FORM.—Each report under subsection (a) shall
20 be submitted in unclassified form, but may include a clas-
21 sified annex.”.

22 (2) CLERICAL AMENDMENT.—The item relating
23 to section 4208 in the table of contents for such Act
24 is amended to read as follows:

“Sec. 4208. Reports on nuclear test readiness.”.

1 **SEC. 3122. SENSE OF CONGRESS ON THE NUCLEAR NON-**
2 **PROLIFERATION POLICY OF THE UNITED**
3 **STATES AND THE RELIABLE REPLACEMENT**
4 **WARHEAD PROGRAM.**

5 It is the sense of Congress that—

6 (1) the United States should reaffirm its com-
7 mitment to Article VI of the Treaty on the Non-Pro-
8 liferation of Nuclear Weapons, done at Washington,
9 London, and Moscow July 1, 1968, and entered into
10 force March 5, 1970 (in this section referred to as
11 the “Nuclear Non-Proliferation Treaty”);

12 (2) the United States should initiate talks with
13 Russia to reduce the number of nonstrategic nuclear
14 weapons and further reduce the number of strategic
15 nuclear weapons in the respective nuclear weapons
16 stockpiles of the United States and Russia in a
17 transparent and verifiable fashion and in a manner
18 consistent with the security of the United States;

19 (3) the United States and other declared nu-
20 clear weapons state parties to the Nuclear Non-Pro-
21 liferation Treaty, together with weapons states that
22 are not parties to the treaty, should work to reduce
23 the total number of nuclear weapons in the respec-
24 tive stockpiles and related delivery systems of such
25 states;

1 (4) the United States, Russia, and other states
2 should work to negotiate, and then sign and ratify,
3 a treaty setting forth a date for the cessation of the
4 production of fissile material;

5 (5) the Senate should ratify the Comprehensive
6 Nuclear-Test-Ban Treaty, opened for signature at
7 New York September 10, 1996;

8 (6) the United States should commit to dis-
9 mantle as soon as possible all retired warheads or
10 warheads that are planned to be retired from the
11 United States nuclear weapons stockpile;

12 (7) the United States, along with the other de-
13 clared nuclear weapons state parties to the Nuclear
14 Non-Proliferation Treaty, should participate in
15 transparent discussions regarding their nuclear
16 weapons programs and plans, and how such pro-
17 grams and plans, including plans for any new weap-
18 ons or warheads, relate to their obligations as nu-
19 clear weapons state parties under the Treaty;

20 (8) the United States and the declared nuclear
21 weapons state parties to the Nuclear Non-Prolifera-
22 tion Treaty should work to decrease reliance on, and
23 the importance of, nuclear weapons; and

24 (9) the United States should formulate any de-
25 cision on whether to manufacture or deploy a reli-

1 able replacement warhead within the broader context
2 of the progress made by the United States toward
3 achieving each of the goals described in paragraphs
4 (1) through (8).

5 **SEC. 3123. REPORT ON STATUS OF ENVIRONMENTAL MAN-**
6 **AGEMENT INITIATIVES TO ACCELERATE THE**
7 **REDUCTION OF ENVIRONMENTAL RISKS AND**
8 **CHALLENGES POSED BY THE LEGACY OF THE**
9 **COLD WAR.**

10 (a) IN GENERAL.—On the date described in sub-
11 section (d), the Secretary of Energy shall submit to the
12 congressional defense committees and the Comptroller
13 General of the United States a report on the status of
14 the environmental management initiatives described in
15 subsection (c) undertaken to accelerate the reduction of
16 the environmental risks and challenges that, as a result
17 of the legacy of the Cold War, are faced by the Depart-
18 ment of Energy, contractors of the Department, and appli-
19 cable Federal and State agencies with regulatory jurisdic-
20 tion.

21 (b) ELEMENTS.—The report required by subsection
22 (a) shall include the following:

23 (1) A discussion of the progress made in reduc-
24 ing the environmental risks and challenges described
25 in subsection (a) in each of the following areas:

1 (A) Acquisition strategy and contract man-
2 agement.

3 (B) Regulatory agreements.

4 (C) Interim storage and final disposal of
5 high-level waste, spent nuclear fuel, transuranic
6 waste, and low-level waste.

7 (D) Closure and transfer of environmental
8 remediation sites.

9 (E) Achievements in innovation by contrac-
10 tors of the Department with respect to acceler-
11 ated risk reduction and cleanup.

12 (F) Consolidation of special nuclear mate-
13 rials and improvements in safeguards and secu-
14 rity.

15 (2) An assessment of the progress made in
16 streamlining risk reduction processes of the environ-
17 mental management program of the Department.

18 (3) An assessment of the progress made in im-
19 proving the responsiveness and effectiveness of the
20 environmental management program of the Depart-
21 ment.

22 (4) Any proposals for legislation that the Sec-
23 retary considers necessary to carry out the environ-
24 mental management initiatives described in sub-

1 section (c) and the justification for each such pro-
2 posal.

3 (5) A list of the mandatory milestones and com-
4 mitments set forth in each enforceable cleanup
5 agreement or other type of agreement covering or
6 applicable to environmental management and clean-
7 up activities at any site of the Department, the sta-
8 tus of the efforts of the Department to meet such
9 milestones and commitments, and if the Secretary
10 determines that the Department will be unable to
11 achieve any such milestone or commitment, a state-
12 ment setting forth the reasons the Department will
13 be unable to achieve such milestone or commitment.

14 (6) An estimate of the life cycle cost of the en-
15 vironmental management program, including the fol-
16 lowing:

17 (A) A list of the environmental projects
18 being reviewed for potential inclusion in the en-
19 vironmental management program as of Octo-
20 ber 1, 2007, and an estimated date by which a
21 determination will be made to include or ex-
22 clude each such project.

23 (B) A list of environmental projects not
24 being considered for potential inclusion in the
25 environmental management program as of Oc-

1 tober 1, 2007, but that are likely to be included
2 in the next five years, and an estimated date by
3 which a determination will be made to include
4 or exclude each such project.

5 (C) A list of projects in the environmental
6 management program as of October 1, 2007,
7 for which an audit of the cost estimate of the
8 project has been completed, and the estimated
9 date by which such an audit will be completed
10 for each such project for which such an audit
11 has not been completed.

12 (D) The estimated schedule for production
13 of a revised life cycle cost estimate for the envi-
14 ronmental management program incorporating
15 the information described in subparagraphs (A),
16 (B), and (C).

17 (e) INITIATIVES DESCRIBED.—The environmental
18 management initiatives described in this subsection are
19 the initiatives arising out of the report titled “Top-to-Bot-
20 tom Review of the Environmental Management Program”
21 and dated February 4, 2002, with respect to the environ-
22 mental restoration and waste management activities of the
23 Department in carrying out programs necessary for na-
24 tional security.

1 (d) DATE OF SUBMITTAL.—The date described in
2 this subsection is the date on which the budget justifica-
3 tion materials in support of the Department of Energy
4 budget for fiscal year 2009 (as submitted with the budget
5 of the President under section 1105(a) of title 31, United
6 States Code) are submitted to Congress.

7 (e) REVIEW BY COMPTROLLER GENERAL.—Not later
8 than 180 days after the date described in subsection (d),
9 the Comptroller General shall submit to the congressional
10 defense committees a report containing a review of the re-
11 port required by subsection (a).

12 **SEC. 3124. COMPTROLLER GENERAL REPORT ON DEPART-**
13 **MENT OF ENERGY PROTECTIVE FORCE MAN-**
14 **AGEMENT.**

15 (a) IN GENERAL.—Not later than 180 days after the
16 date of the enactment of this Act, the Comptroller General
17 of the United States shall submit to the Committee on
18 Armed Services of the Senate and the Committee on
19 Armed Services of the House of Representatives a report
20 on the management of the protective forces of the Depart-
21 ment of Energy.

22 (b) CONTENTS.—The report shall include the fol-
23 lowing:

24 (1) A description of the management and con-
25 tractual structure for protective forces at each De-

1 partment of Energy site with Category I nuclear ma-
2 terials.

3 (2) A statement of the number and category of
4 protective force members at each site described in
5 paragraph (1) and an assessment of whether the
6 protective force at each such site is adequately
7 staffed, trained, and equipped to comply with the re-
8 quirements of the Design Basis Threat issued by the
9 Department of Energy in November 2005.

10 (3) A description of the manner in which each
11 site described in paragraph (1) is moving to a tac-
12 tical response force as required by the policy of the
13 Department of Energy and an assessment of the
14 issues or problems, if any, involved in the moving to
15 a tactical response force at such site.

16 (4) A description of the extent to which the
17 protective force at each site described in paragraph
18 (1) has been assigned or is responsible for law en-
19 forcement or law-enforcement related activities.

20 (5) An analysis comparing the management,
21 training, pay, benefits, duties, responsibilities, and
22 assignments of the protective force at each site de-
23 scribed in paragraph (1) with the management,
24 training, pay, benefits, duties, responsibilities, and

1 assignments of the Federal transportation security
2 force of the Department of Energy.

3 (6) A statement of options for managing the
4 protective force at sites described in paragraph (1)
5 in a more uniform manner, an analysis of the advan-
6 tages and disadvantages of each option, and an as-
7 sessment of the approximate cost of each option
8 when compared with the costs associated with the
9 existing management of the protective force at such
10 sites.

11 (c) FORM.—The report shall be submitted in unclas-
12 sified form, but may include a classified annex.

13 **SEC. 3125. TECHNICAL AMENDMENTS.**

14 The Atomic Energy Defense Act (50 U.S.C. 2521 et
15 seq.) is amended as follows:

16 (1) The heading of section 4204A (50 U.S.C.
17 2524a) is amended to read as follows:

18 **“SEC. 4204A. RELIABLE REPLACEMENT WARHEAD PRO-**
19 **GRAM.”.**

20 (2) The table of contents for that Act is amend-
21 ed by inserting after the item relating to section
22 4204 the following new item:

“Sec. 4204A. Reliable Replacement Warhead program.”.

1 **TITLE XXXII—DEFENSE NU-**
2 **CLEAR FACILITIES SAFETY**
3 **BOARD**

4 **SEC. 3201. AUTHORIZATION.**

5 There are authorized to be appropriated for fiscal
6 year 2008, \$27,499,000 for the operation of the Defense
7 Nuclear Facilities Safety Board under chapter 21 of the
8 Atomic Energy Act of 1954 (42 U.S.C. 2286 et seq.).

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A BILL

To authorize appropriations for fiscal year 2008 for defense activities of the Department of Energy, and for other purposes.

JUNE 5, 2007

Read twice and placed on the calendar