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1 **DIVISION C—DEPARTMENT OF EN-**
2 **ERGY NATIONAL SECURITY AU-**
3 **THORIZATIONS AND OTHER AU-**
4 **THORIZATIONS**
5 **TITLE XXXI—DEPARTMENT OF EN-**
6 **ERGY NATIONAL SECURITY PRO-**
7 **GRAMS**

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Subtitle A—National Security Programs Authorizations

SEC. 3101. NATIONAL NUCLEAR SECURITY ADMINISTRATION.

(a) AUTHORIZATION OF APPROPRIATIONS.—Funds are hereby authorized to be appropriated to the Department of Energy for fiscal year 2003 for the activities of the National Nuclear Security Administration in carrying out programs necessary for national security in the amount of \$8,038,490,000, to be allocated as follows:

- (1) For weapons activities, \$5,901,641,000.
- (2) For defense nuclear nonproliferation activities, \$1,104,130,000.

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1 (3) For naval reactors, \$706,790,000.

2 (4) For the Office of the Administrator for Nuclear
3 Security, \$325,929,000.

4 (b) AUTHORIZATION OF NEW PLANT PROJECTS.—From
5 funds referred to in subsection (a) that are available for car-
6 rying out plant projects, the Secretary of Energy may carry out
7 new plant projects as follows:

8 (1) For weapons activities, the following new plant
9 projects:

10 Project 03-D-101, Sandia underground reactor
11 facility (SURF), Sandia National Laboratories, Albu-
12 querre, New Mexico, \$2,000,000.

13 Project 03-D-103, project engineering and design,
14 various locations, \$17,039,000.

15 Project 03-D-121, gas transfer capacity expan-
16 sion, Kansas City Plant, Kansas City, Missouri,
17 \$4,000,000.

18 Project 03-D-122, prototype purification facility,
19 Y-12 plant, Oak Ridge, Tennessee, \$20,800,000.

20 Project 03-D-123, special nuclear materials re-
21 qualification, Pantex plant, Amarillo, Texas,
22 \$3,000,000.

23 (2) For naval reactors, the following new plant project:

24 Project 03-D-201, cleanroom technology facility,
25 Bettis Atomic Power Laboratory, West Mifflin, Penn-
26 sylvania, \$7,200,000.

27 **SEC. 3102. DEFENSE ENVIRONMENTAL MANAGEMENT.**

28 (a) AUTHORIZATION OF APPROPRIATIONS.—Funds are
29 hereby authorized to be appropriated to the Department of En-
30 ergy for fiscal year 2003 for environmental management activi-
31 ties in carrying out programs necessary for national security in
32 the amount of \$6,759,846,000, to be allocated as follows:

33 (1) For defense environmental restoration and waste
34 management, \$4,510,133,000.

35 (2) For defense environmental management cleanup
36 reform in carrying out environmental restoration and waste

1 management activities necessary for national security pro-
2 grams, \$982,000,000.

3 (3) For defense facilities closure projects,
4 \$1,109,314,000.

5 (4) For defense environmental management privatiza-
6 tion, \$158,399,000.

7 (b) AUTHORIZATION OF NEW PLANT PROJECTS.—From
8 funds referred to in subsection (a) that are available for car-
9 rying out plant projects, the Secretary of Energy may carry out
10 new plant projects as follows:

11 (1) For environmental restoration and waste manage-
12 ment activities, the following new plant project:

13 Project 03-D-403, immobilized high-level waste
14 interim storage facility, Richland, Washington,
15 \$6,363,000.

16 (2) For defense environmental management cleanup
17 reform, the following new plant project:

18 Project 03-D-414, project engineering and design,
19 various locations, \$8,800,000.

20 **SEC. 3103. OTHER DEFENSE ACTIVITIES.**

21 Funds are hereby authorized to be appropriated to the De-
22 partment of Energy for fiscal year 2003 for other defense ac-
23 tivities in carrying out programs necessary for national security
24 in the amount of \$462,664,000.

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

26 Funds are hereby authorized to be appropriated to the De-
27 partment of Energy for fiscal year 2003 for defense nuclear
28 waste disposal for payment to the Nuclear Waste Fund estab-
29 lished in section 302(c) of the Nuclear Waste Policy Act of
30 1982 (42 U.S.C. 10222(c)) in the amount of \$315,000,000.

1 **Subtitle B—Program Authorizations,**
2 **Restrictions, and Limitations**

3 **SEC. 3141. ANNUAL ASSESSMENTS AND REPORTS TO**
4 **THE PRESIDENT AND CONGRESS REGARD-**
5 **ING THE CONDITION OF THE UNITED**
6 **STATES NUCLEAR WEAPONS STOCKPILE.**

7 (a) ANNUAL ASSESSMENTS REQUIRED.—For each nuclear
8 weapon type in the stockpile of the United States, each official
9 specified in subsection (b) on an annual basis shall, to the ex-
10 tent such official is directly responsible for the safety, reli-
11 ability, performance, or military effectiveness of that nuclear
12 weapon type, complete an assessment of the safety, reliability,
13 performance, or military effectiveness (as the case may be) of
14 that nuclear weapon type.

15 (b) COVERED OFFICIALS.—The officials referred to in
16 subsection (a) are the following:

17 (1) The head of each national security laboratory.

18 (2) The commander of the United States Strategic
19 Command.

20 (c) USE OF TEAMS OF EXPERTS FOR ASSESSMENTS.—
21 The head of each national security laboratory shall establish
22 and use one or more teams of experts, known as “red teams”,
23 to assist in the assessments required by subsection (a). Each
24 such team shall include experts from both of the other national
25 security laboratories. Each such team for a national security
26 laboratory shall—

27 (1) review the matters covered by the assessments
28 under subsection (a) performed by the head of that labora-
29 tory;

30 (2) subject such matters to challenge; and

31 (3) submit the results of such review and challenge,
32 together with the findings and recommendations of such
33 team with respect to such review and challenge, to the head
34 of that laboratory.

35 (d) REPORT ON ASSESSMENTS.—Not later than December
36 1 of each year, each official specified in subsection (b) shall
37 submit to the Secretary concerned, and to the Nuclear Weap-

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1 ons Council, a report on the assessments that such official was
2 required by subsection (a) to complete. The report shall include
3 the following:

4 (1) The results of each such assessment.

5 (2)(A) Such official's determination as to whether or
6 not one or more underground nuclear tests are necessary
7 to resolve any issues identified in the assessments and, if
8 so—

9 (i) an identification of the specific underground
10 nuclear tests that are necessary to resolve such issues;
11 and

12 (ii) a discussion of why options other than an un-
13 derground nuclear test are not available or would not
14 resolve such issues.

15 (B) An identification of the specific underground nu-
16 clear tests which, while not necessary, might have value in
17 resolving any such issues and a discussion of the antici-
18 pated value of conducting such tests.

19 (C) Such official's determination as to the readiness of
20 the United States to conduct the underground nuclear tests
21 identified under subparagraphs (A)(i) and (B), if directed
22 by the President to do so.

23 (3) In the case of a report submitted by the head of
24 a national security laboratory—

25 (A) a concise statement regarding the adequacy of
26 the science-based tools and methods being used to de-
27 termine the matters covered by the assessments;

28 (B) a concise statement regarding the adequacy of
29 the tools and methods employed by the manufacturing
30 infrastructure required by section 3137 of the National
31 Defense Authorization Act for Fiscal Year 1996 (42
32 U.S.C. 2121 note) to identify and fix any inadequacy
33 with respect to the matters covered by the assessments;
34 and

35 (C) a concise summary of the findings and rec-
36 ommendations of any teams under subsection (c) that

1 relate to the assessments, together with a discussion of
2 those findings and recommendations.

3 (4) In the case of a report submitted by the Com-
4 mander of the United States Strategic Command, a discus-
5 sion of the relative merits of other nuclear weapon types (if
6 any), or compensatory measures (if any) that could be
7 taken, that could enable accomplishment of the missions of
8 the nuclear weapon types to which the assessments relate,
9 should such assessments identify any deficiency with re-
10 spect to such nuclear weapon types.

11 (5) An identification and discussion of any matter hav-
12 ing an adverse effect on the capability of the official sub-
13 mitting the report to accurately determine the matters cov-
14 ered by the assessments.

15 (e) SUBMITTALS TO THE PRESIDENT AND CONGRESS.—
16 (1) Not later than March 1 of each year, the Secretary of De-
17 fense and the Secretary of Energy shall submit to the
18 President—

19 (A) each report, without change, submitted to either
20 Secretary under subsection (d) during the preceding year;

21 (B) any comments that the Secretaries individually or
22 jointly consider appropriate with respect to each such re-
23 port;

24 (C) the conclusions that the Secretaries individually or
25 jointly reach as to the safety, reliability, performance, and
26 military effectiveness of the nuclear weapons stockpile of
27 the United States; and

28 (D) any other information that the Secretaries individ-
29 ually or jointly consider appropriate.

30 (2) Not later than March 15 of each year, the President
31 shall forward to Congress the matters received by the President
32 under paragraph (1) for that year, together with any comments
33 the President considers appropriate.

34 (f) CLASSIFIED FORM.—Each submittal under subsection
35 (e) shall be in classified form only, with the classification level
36 required for each portion of such submittal marked appro-
37 priately.

1 (g) DEFINITIONS.—In this section:

2 (1) The term “national security laboratory” has the
3 meaning given such term in section 3281 of the National
4 Nuclear Security Administration Act (50 U.S.C. 2471).

5 (2) The term “Secretary concerned” means—

6 (A) the Secretary of Energy, with respect to mat-
7 ters concerning the Department of Energy; and

8 (B) the Secretary of Defense, with respect to mat-
9 ters concerning the Department of Defense.

10 (h) FIRST SUBMISSIONS.—(1) The first submissions made
11 under subsection (d) shall be the submissions required to be
12 made in 2003.

13 (2) The first submissions made under subsection (e) shall
14 be the submissions required to be made in 2004.

15 **SEC. 3142. PLANS FOR ACHIEVING ENHANCED READI-**
16 **NESS POSTURE FOR RESUMPTION BY THE**
17 **UNITED STATES OF UNDERGROUND NU-**
18 **CLEAR WEAPONS TESTS.**

19 (a) PLANS REQUIRED.—The Secretary of Energy, in con-
20 sultation with the Administrator for Nuclear Security, shall
21 prepare plans for achieving, not later than one year after the
22 date on which the plans are submitted under subsection (c),
23 readiness postures of six months, 12 months, 18 months, and
24 24 months for resumption by the United States of underground
25 nuclear weapons tests.

26 (b) READINESS POSTURE.—For purposes of this section,
27 a readiness posture of a specified number of months for re-
28 sumption by the United States of underground nuclear weapons
29 tests is achieved when the Department of Energy has the capa-
30 bility to resume such tests, if directed by the President to re-
31 sume such tests, not later than the specified number of months
32 after the date on which the President so directs.

33 (c) REPORT.—The Secretary shall include with the budget
34 justification materials submitted to Congress in support of the
35 Department of Energy budget for fiscal year 2004 (as sub-
36 mitted with the budget of the President under section 1105(a))

1 of title 31, United States Code) a report on the plans required
2 by subsection (a). The report shall include—

3 (1) an assessment of the current readiness posture for
4 resumption by the United States of underground nuclear
5 weapons tests;

6 (2) the plans required by subsection (a) and, for each
7 such plan, the estimated cost for implementing such plan
8 and an estimate of the annual cost of maintaining the read-
9 iness posture to which the plan relates; and

10 (3) the recommendation of the Secretary, developed in
11 consultation with the Secretary of Defense, as to the opti-
12 mal readiness posture for resumption by the United States
13 of underground nuclear weapons tests, including the basis
14 for that recommendation.

15 **SEC. 3143. REQUIREMENTS FOR SPECIFIC REQUEST FOR**
16 **NEW OR MODIFIED NUCLEAR WEAPONS.**

17 (a) REQUIREMENT FOR REQUEST FOR FUNDS FOR DE-
18 VELOPMENT.—(1) In any fiscal year after fiscal year 2002 in
19 which the Secretary of Energy plans to carry out activities de-
20 scribed in paragraph (2) relating to the development of a new
21 nuclear weapon or modified nuclear weapon, the Secretary shall
22 specifically request funds for such activities in the budget of
23 the President for that fiscal year under section 1105(a) of title
24 31, United States Code.

25 (2) The activities described in this paragraph are as fol-
26 lows:

27 (A) The conduct, or provision for conduct, of research
28 and development which could lead to the production of a
29 new nuclear weapon by the United States.

30 (B) The conduct, or provision for conduct, of engineer-
31 ing or manufacturing to carry out the production of a new
32 nuclear weapon by the United States.

33 (C) The conduct, or provision for conduct, of research
34 and development which could lead to the production of a
35 modified nuclear weapon by the United States.

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1 (D) The conduct, or provision for conduct, of engineer-
2 ing or manufacturing to carry out the production of a
3 modified nuclear weapon by the United States.

4 (b) BUDGET REQUEST FORMAT.—The Secretary shall in-
5 clude in a request for funds under subsection (a) the following:

6 (1) In the case of funds for activities described in sub-
7 paragraph (A) or (C) of subsection (a)(2), a single dedi-
8 cated line item for all such activities for new nuclear weap-
9 ons or modified nuclear weapons that are in phase 1, 2, or
10 2A or phase 6.1, 6.2, or 6.2A (as the case may be), or any
11 concept work prior to phase 1 or 6.1 (as the case may be),
12 of the nuclear weapons acquisition process.

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

19 (c) EXCEPTION.—Subsection (a) shall not apply to funds
20 for purposes of conducting, or providing for the conduct of, re-
21 search and development, or manufacturing and engineering, de-
22 termined by the Secretary to be necessary—

23 (1) for the nuclear weapons life extension program;

24 (2) to modify an existing nuclear weapon solely to ad-
25 dress safety or reliability concerns; or

26 (3) to address proliferation concerns.

27 (d) DEFINITIONS.—In this section:

28 (1) The term “life extension program” means the pro-
29 gram to repair or replace non-nuclear components, or to
30 modify the pit or canned subassembly, of nuclear weapons
31 that are in the nuclear weapons stockpile on the date of the
32 enactment of this Act in order to assure that such nuclear
33 weapons retain the ability to meet the military require-
34 ments applicable to such nuclear weapons when first placed
35 in the nuclear weapons stockpile.

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1 (2) The term “modified nuclear weapon” means a nu-
2 clear weapon that contains a pit or canned subassembly, ei-
3 ther of which—

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

6 (B) is being modified in order to meet a military
7 requirement that is other than the military require-
8 ments applicable to such nuclear weapon when first
9 placed in the nuclear weapons stockpile.

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

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

15 (B) in production as of that date.

16 **SEC. 3144. DATABASE TO TRACK NOTIFICATION AND**
17 **RESOLUTION PHASES OF SIGNIFICANT FIND-**
18 **ING INVESTIGATIONS.**

19 (a) AVAILABILITY OF FUNDS FOR DATABASE.—Amounts
20 authorized to be appropriated by section 3101(a)(1) for the
21 National Nuclear Security Administration for weapons activi-
22 ties shall be available to the Deputy Administrator for Nuclear
23 Security for Defense Programs for the development and imple-
24 mentation of a database for all national security laboratories to
25 track the notification and resolution phases of Significant Find-
26 ing Investigations (SFIs). The purpose of the database is to fa-
27 cilitate the monitoring of the progress and accountability of the
28 national security laboratories in Significant Finding Investiga-
29 tions.

30 (b) IMPLEMENTATION DEADLINE.—The database required
31 by subsection (a) shall be implemented not later than Sep-
32 tember 30, 2003.

33 (c) NATIONAL SECURITY LABORATORY DEFINED.—In this
34 section, the term “national security laboratory” has the mean-
35 ing given that term in section 3281(1) of the National Nuclear
36 Security Administration Act (title XXXII of Public Law 106–
37 65; 113 Stat. 968; 50 U.S.C. 2471(1)).

1 **SEC. 3145. DEFENSE ENVIRONMENTAL MANAGEMENT**
2 **CLEANUP REFORM PROGRAM.**

3 (a) PROGRAM REQUIRED.—From funds made available
4 pursuant to section 3102(a)(2) for defense environmental man-
5 agement cleanup reform, the Secretary of Energy shall carry
6 out a program to reform DOE environmental management ac-
7 tivities. In carrying out the program, the Secretary shall allo-
8 cate, to each site for which the Secretary has submitted to the
9 congressional defense committees a site performance manage-
10 ment plan, the amount of those funds that such plan requires.

11 (b) TRANSFER AND MERGER OF FUNDS.—(1) Funds so
12 allocated shall, notwithstanding section 3624, be transferred to
13 the account for DOE environmental management activities and,
14 subject to paragraph (2) and subsection (c), shall be merged
15 with and be available for the same purposes and for the same
16 period as the funds available in such account. The authority
17 provided by section 3629 shall apply to funds so transferred.

18 (2) No funds so allocated may be obligated or expended
19 until 30 days after the Secretary submits to the congressional
20 defense committees a description of the activities to be carried
21 out at each site to which funds are so allocated.

22 (c) LIMITATION ON USE OF ALL MERGED FUNDS.—Upon
23 a transfer and merger of funds under subsection (b), all funds
24 in the merged account that are available with respect to the
25 site may be used only to carry out the site performance man-
26 agement plan for the site.

27 (d) SITE PERFORMANCE MANAGEMENT PLAN DE-
28 FINED.—For purposes of this section, a site performance man-
29 agement plan for a site is a plan, agreed to by the applicable
30 Federal and State agencies with regulatory jurisdiction with re-
31 spect to the site, for the performance of activities to accelerate
32 the reduction of environmental risk in connection with, and to
33 accelerate the environmental cleanup of, the site.

34 (e) DOE ENVIRONMENTAL MANAGEMENT ACTIVITIES DE-
35 FINED.—For purposes of this section, the term “DOE environ-
36 mental management activities” means environmental restora-
37 tion and waste management activities of the Department of

1 Energy in carrying out programs necessary for national secu-
2 rity.

3 **SEC. 3146. LIMITATION ON OBLIGATION OF FUNDS FOR**
4 **ROBUST NUCLEAR EARTH PENETRATOR**
5 **PROGRAM PENDING SUBMISSION OF RE-**
6 **PORT.**

7 (a) REPORT-AND-WAIT REQUIREMENT.—None of the
8 funds made available to the Secretary of Energy for fiscal year
9 2003 for the Robust Nuclear Earth Penetrator program may
10 be obligated until—

11 (1) the Secretary of Defense submits to the Commit-
12 tees on Armed Services of the Senate and House of Rep-
13 resentatives a report described in subsection (b); and

14 (2) a period of 30 days has passed after such report
15 is received by those committees.

16 (b) REPORT.—A report under subsection (a)(1) is a report
17 on the Robust Nuclear Earth Penetrator program, prepared by
18 the Secretary of Defense in consultation with the Secretary of
19 Energy, that sets forth the following:

20 (1) The military requirements for the Robust Nuclear
21 Earth Penetrator.

22 (2) The nuclear weapons employment policy regarding
23 the Robust Nuclear Earth Penetrator.

24 (3) A detailed description of the categories or types of
25 targets that the Robust Nuclear Earth Penetrator is de-
26 signed to hold at risk.

27 (4) An assessment of the ability of conventional weap-
28 ons to defeat the same categories and types of targets as
29 are described pursuant to paragraph (3).

30 **Subtitle C—Proliferation Matters**

31 **SEC. 3151. TRANSFER TO NATIONAL NUCLEAR SECU-**
32 **RITY ADMINISTRATION OF DEPARTMENT OF**
33 **DEFENSE'S COOPERATIVE THREAT REDUC-**
34 **TION PROGRAM RELATING TO ELIMINATION**
35 **OF WEAPONS GRADE PLUTONIUM PRODUC-**
36 **TION IN RUSSIA.**

37 (a) TRANSFER OF PROGRAM.—There are hereby trans-
38 ferred to the Administrator for Nuclear Security the following:

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1 (1) The program, within the Cooperative Threat Re-
2 duction program of the Department of Defense, relating to
3 the elimination of weapons grade plutonium production in
4 Russia.

5 (2) All functions, powers, duties, and activities of that
6 program performed before the date of the enactment of this
7 Act by the Department of Defense.

8 (b) TRANSFER OF ASSETS.—(1) Notwithstanding any re-
9 striction or limitation in law on the availability of Cooperative
10 Threat Reduction funds specified in paragraph (2), so much of
11 the property, records, and unexpended balances of appropri-
12 ations, allocations, and other funds employed, used, held, avail-
13 able, or to be made available in connection with the program
14 transferred by subsection (a) are transferred to the Adminis-
15 trator for use in connection with the program transferred.

16 (2) The Cooperative Threat Reduction funds specified in
17 this paragraph are the following:

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

22 (B) Fiscal year 2001 Cooperative Threat Reduction
23 funds, as specified in section 1301(b) of the Floyd D.
24 Spence National Defense Authorization Act for Fiscal Year
25 2001 (as enacted into law by Public Law 106–398; 114
26 Stat. 1654A–339; 22 U.S.C. 5959 note).

27 (C) Fiscal year 2000 Cooperative Threat Reduction
28 funds, as specified in section 1301(b) of the National De-
29 fense Authorization Act for Fiscal Year 2000 (Public Law
30 106–65; 113 Stat. 792; 22 U.S.C. 5952 note).

31 (c) AVAILABILITY OF TRANSFERRED FUNDS.—(1) Not-
32 withstanding any restriction or limitation in law on the avail-
33 ability of Cooperative Threat Reduction funds specified in sub-
34 section (b)(2), the Cooperative Threat Reduction funds trans-
35 ferred under subsection (b) for the program referred to in sub-
36 section (a) shall be available for activities as follows:

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1 (A) To design and construct, refurbish, or both, fossil
2 fuel energy plants in Russia that provide alternative
3 sources of energy to the energy plants in Russia that
4 produce weapons grade plutonium.

5 (B) To carry out limited safety upgrades of not more
6 than three energy plants in Russia that produce weapons
7 grade plutonium, provided that such upgrades do not ex-
8 tend the life of those plants.

9 (2) Amounts available under paragraph (1) for activities
10 referred to in that paragraph shall remain available for obliga-
11 tion for three fiscal years.

12 (d) LIMITATION.—(1) Of the amounts authorized to be ap-
13 propriated by this title or any other Act for the program re-
14 ferred to in subsection (a), the Administrator for Nuclear Secu-
15 rity may not obligate any funds for construction, or obligate or
16 expend more than \$100,000,000 for that program, until 30
17 days after the later of—

18 (A) the date on which the Administrator submits to
19 the congressional defense committees, the Committee on
20 International Relations of the House of Representatives,
21 and the Committee on Foreign Relations of the Senate, a
22 copy of an agreement or agreements entered into between
23 the United States Government and the Government of the
24 Russian Federation to shut down the three plutonium-pro-
25 ducing reactors in Russia as specified under paragraph (2);
26 and

27 (B) the date on which the Administrator submits to
28 the committees specified in subparagraph (A) a report on
29 a plan to achieve international participation in the program
30 referred to in subsection (a), including cost sharing.

31 (2) The agreement (or agreements) under paragraph
32 (1)(A) shall contain—

33 (A) a commitment to shut down the three plutonium-
34 producing reactors;

35 (B) the date on which each such reactor will be shut
36 down;

1 (C) a schedule and milestones for each such reactor to
2 complete the shutdown of such reactor by the date specified
3 under subparagraph (B);

4 (D) a schedule and milestones for refurbishment or
5 construction of fossil fuel energy plants to be undertaken
6 by the Government of the Russian Federation in support
7 of the program;

8 (E) an arrangement for access to sites and facilities
9 necessary to meet such schedules and milestones;

10 (F) an arrangement for audit and examination proce-
11 dures in order to evaluate progress in meeting such sched-
12 ules and milestones; and

13 (G) any cost sharing arrangements between the United
14 States Government and the Government of the Russian
15 Federation in undertaking activities under such agreement
16 (or agreements).

17 **SEC. 3152. REPEAL OF REQUIREMENT FOR REPORTS ON**
18 **OBLIGATION OF FUNDS FOR PROGRAMS ON**
19 **FISSILE MATERIALS IN RUSSIA.**

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

23 (1) in subsection (a), by striking “(a) AUTHORITY.—
24 ”; and

25 (2) by striking subsection (b).

26 **SEC. 3153. EXPANSION OF ANNUAL REPORTS ON STATUS**
27 **OF NUCLEAR MATERIALS PROTECTION, CON-**
28 **TROL, AND ACCOUNTING PROGRAMS.**

29 (a) COVERED PROGRAMS.—Subsection (a) of section 3171
30 of the Floyd D. Spence National Defense Authorization Act for
31 Fiscal Year 2001 (as enacted into law by Public Law 106–398;
32 114 Stat. 1654A–475; 22 U.S.C. 5952 note) is amended by
33 striking “Russia that” and inserting “countries where such ma-
34 terials”.

35 (b) REPORT CONTENTS.—Subsection (b) of that section is
36 amended—

37 (1) in paragraph (1) by inserting “in each country
38 covered by subsection (a)” after “locations,”;

1 (2) in paragraph (2), by striking “in Russia” and in-
2 serting “in each such country”;

3 (3) in paragraph (3), by inserting “in each such coun-
4 try” after “subsection (a)”; and

5 (4) in paragraph (5), by striking “by total amount and
6 by amount per fiscal year” and inserting “by total amount
7 per country and by amount per fiscal year per country”.

8 **SEC. 3154. TESTING OF PREPAREDNESS FOR EMER-**
9 **GENCIES INVOLVING NUCLEAR, RADIO-**
10 **LOGICAL, CHEMICAL, OR BIOLOGICAL WEAP-**
11 **ONS.**

12 (a) EXTENSION OF TESTING.—Section 1415 of the De-
13 fense Against Weapons of Mass Destruction Act of 1996 (title
14 XIV of Public Law 104–201; 110 Stat. 2720; 50 U.S.C. 2315)
15 is amended—

16 (1) in subsection (a)(2), by striking “of five successive
17 fiscal years beginning with fiscal year 1997” and inserting
18 “of fiscal years 1997 through 2013”; and

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

22 (b) CONSTRUCTION OF EXTENSION WITH DESIGNATION
23 OF ATTORNEY GENERAL AS LEAD OFFICIAL.—The amend-
24 ments made by subsection (a) may not be construed as modi-
25 fying the designation of the President titled “Designation of
26 the Attorney General as the Lead Official for the Emergency
27 Response Assistance Program Under Sections 1412 and 1415
28 of the National Defense Authorization Act for Fiscal Year
29 1997”, dated April 6, 2000, designating the Attorney General
30 to assume programmatic and funding responsibilities for the
31 Emergency Response Assistance Program under sections 1412
32 and 1415 of the Defense Against Weapons of Mass Destruction
33 Act of 1996 (title XIV of the National Defense Authorization
34 Act for Fiscal Year 1997).

1 **SEC. 3155. COOPERATIVE PROGRAM ON RESEARCH, DE-**
2 **VELOPMENT, AND DEMONSTRATION OF**
3 **TECHNOLOGY REGARDING NUCLEAR OR RA-**
4 **DIOLOGICAL TERRORISM.**

5 (a) PROGRAM REQUIRED.—The Administrator for Nuclear
6 Security shall carry out with the Russian Federation a coopera-
7 tive program on the research, development, and demonstration
8 of technologies for protection from and response to nuclear or
9 radiological terrorism.

10 (b) PROGRAM ELEMENTS.—In carrying out the program
11 required by subsection (a), the Administrator shall—

12 (1) conduct research and development of technology
13 for protection from nuclear or radiological terrorism, in-
14 cluding technology for the detection, identification, assess-
15 ment, control, and disposition of radiological materials that
16 could be used for nuclear terrorism; and

17 (2) provide, where feasible, for the demonstration to
18 other countries of technologies or methodologies on matters
19 relating to nuclear or radiological terrorism, including—

20 (A) the demonstration of technologies developed
21 under the program to respond to nuclear or radiological
22 terrorism;

23 (B) the demonstration of technologies developed
24 under the program for the disposal of radioactive mate-
25 rials;

26 (C) the demonstration of methodologies developed
27 under the program for use in evaluating the radio-
28 logical threat of radiological sources identified as not
29 under current accounting programs in the audit report
30 of the Inspector General of the Department of Energy
31 titled “Accounting for Sealed Sources of Nuclear Mate-
32 rial Provided to Foreign Countries” (DOE/IG-0546);

33 (D) in coordination with the Nuclear Regulatory
34 Commission, the demonstration of methodologies devel-
35 oped under the program to facilitate the development
36 of a regulatory framework for licensing and controlling
37 radioactive sources; and

31-19

1 (E) in coordination with the Office of Environ-
2 ment, Safety, and Health of the Department of En-
3 ergy, the demonstration of methodologies developed
4 under the program to facilitate development of con-
5 sistent criteria for screening international transfers of
6 radiological materials.

7 (c) CONSULTATION.—In carrying out activities in accord-
8 ance with subsection (b)(2), the Administrator shall consult
9 with—

10 (1) the Secretary of Defense, Secretary of State, and
11 Secretary of Commerce; and

12 (2) the International Atomic Energy Agency.

13 (d) AMOUNT FOR ACTIVITIES.—Of the amount authorized
14 to be appropriated by section 3101(a)(2) for the Department
15 of Energy for the National Nuclear Security Administration for
16 defense nuclear nonproliferation, up to \$15,000,000 may be
17 available for carrying out this section.

18 **SEC. 3156. MATTERS RELATING TO THE INTERNATIONAL**
19 **MATERIALS PROTECTION, CONTROL, AND**
20 **ACCOUNTING PROGRAM OF THE DEPART-**
21 **MENT OF ENERGY.**

22 (a) RADIOLOGICAL DISPERSAL DEVICE MATERIALS PRO-
23 TECTION, CONTROL, AND ACCOUNTING.—The Secretary of En-
24 ergy may establish within the International Materials Protec-
25 tion, Control, and Accounting program of the Department of
26 Energy a program on the protection, control, and accounting
27 of materials usable in radiological dispersal devices. In estab-
28 lishing such program, the Secretary shall—

29 (1) identify the sites and radiological materials to be
30 covered by such program;

31 (2) carry out a risk assessment of such radiological
32 materials; and

33 (3) identify and establish the costs of and schedules
34 for such program.

35 (b) REVISED FOCUS FOR MATERIALS PROTECTION, CON-
36 TROL, AND ACCOUNTING PROGRAM OF RUSSIAN FEDERA-
37 TION.—(1) The Secretary of Energy shall work cooperatively

1 with the Russian Federation to develop, as soon as practicable
2 but not later than January 1, 2013, a sustainable nuclear ma-
3 terials protection, control, and accounting system for the nu-
4 clear materials of the Russian Federation that is supported
5 solely by the Russian Federation.

6 (2) The Secretary shall work with the Russian Federation
7 to identify various alternatives to provide the United States
8 adequate transparency in the nuclear materials protection, con-
9 trol, and accounting program of the Russian Federation to as-
10 sure that such program is meeting applicable goals for nuclear
11 materials protection, control, and accounting.

12 (c) AMOUNT FOR ACTIVITIES.—Of the amount authorized
13 to be appropriated by section 3101(a)(2) for the Department
14 of Energy for the National Nuclear Security Administration for
15 defense nuclear nonproliferation, up to \$5,000,000 may be
16 available for carrying out this section.

17 **SEC. 3157. ACCELERATED DISPOSITION OF HIGHLY EN-**
18 **RICHED URANIUM.**

19 (a) PROGRAM ON ACCELERATED DISPOSITION OF HEU
20 AUTHORIZED.—(1) The Secretary of Energy may carry out a
21 program to pursue with the Russian Federation options for
22 blending highly enriched uranium so that the concentration of
23 U–235 in such uranium is below 20 percent.

24 (2) The options pursued under paragraph (1) shall include
25 expansion of the Material Consolidation and Conversion pro-
26 gram of the Department of Energy to include—

27 (A) additional facilities for the blending of highly en-
28 riched uranium; and

29 (B) additional centralized secure storage facilities for
30 highly enriched uranium designated for blending.

31 (3) Any site selected for the storage of uranium or blended
32 material under paragraph (2)(B) shall undergo complete mate-
33 rials protection, control, and accounting upgrades before the
34 commencement of the storage of uranium or blended material
35 at such site under the program.

36 (b) CONSTRUCTION WITH HEU DISPOSITION AGREE-
37 MENT.—Nothing in this section may be construed as termi-

1 nating, modifying, or otherwise affecting requirements for the
2 disposition of highly enriched uranium under the Agreement
3 Between the Government of the United States of America and
4 the Government of the Russian Federation Concerning the Dis-
5 position of Highly Enriched Uranium Extracted from Nuclear
6 Weapons, signed at Washington on February 18, 1993.

7 (c) LIMITATION ON RELEASE FOR SALE OF BLENDED
8 URANIUM.—Uranium blended under this section may not be re-
9 leased for sale until the earlier of—

10 (1) January 1, 2014; or

11 (2) the date on which the Secretary certifies that such
12 uranium can be absorbed into the global market without
13 undue disruption to the uranium mining, conversion, and
14 enrichment industry in the United States.

15 (d) AMOUNT FOR ACTIVITIES.—Of the amount to be ap-
16 propriated by section 3101(a)(2) for the Department of Energy
17 for the National Nuclear Security Administration for defense
18 nuclear nonproliferation, up to \$10,000,000 may be available
19 for carrying out this section.

20 **SEC. 3158. STRENGTHENED INTERNATIONAL SECURITY**
21 **FOR NUCLEAR MATERIALS AND SECURITY**
22 **OF NUCLEAR OPERATIONS.**

23 (a) REPORT ON OPTIONS FOR INTERNATIONAL PROGRAM
24 TO STRENGTHEN SECURITY.—(1) Not later than 270 days
25 after the date of the enactment of this Act, the Secretary of
26 Energy shall submit to Congress a report on options for an
27 international program to develop strengthened security for nu-
28 clear reactors and associated materials outside the United
29 States.

30 (2) In evaluating options for purposes of the report, the
31 Secretary shall consult with the Nuclear Regulatory Commis-
32 sion and the International Atomic Energy Agency on the feasi-
33 bility and advisability of actions to reduce the risks associated
34 with terrorist attacks on nuclear reactors outside the United
35 States.

36 (b) JOINT PROGRAMS WITH RUSSIA ON PROLIFERATION-
37 RESISTANT NUCLEAR ENERGY TECHNOLOGIES.—(1) The Sec-

1 retary shall pursue with the Ministry of Atomic Energy of the
2 Russian Federation joint programs between the United States
3 and the Russian Federation on the development of prolifera-
4 tion-resistant nuclear energy technologies, including advanced
5 fuel cycles.

6 (2) Of the amount authorized to be appropriated by sec-
7 tion 3101(a)(2) for the Department of Energy for the National
8 Nuclear Security Administration for defense nuclear non-
9 proliferation, up to \$10,000,000 may be available for carrying
10 out the joint programs referred to in paragraph (1).

11 (c) ASSISTANCE REGARDING HOSTILE INSIDERS.—The
12 Secretary may, utilizing appropriate expertise of the Depart-
13 ment of Energy and the Nuclear Regulatory Commission, pro-
14 vide technical assistance to nuclear reactor facilities outside the
15 United States with respect to the interdiction of hostile insiders
16 at such facilities in order to prevent incidents arising from the
17 disablement of the vital systems of such facilities.

18 **SEC. 3159. EXPORT CONTROL PROGRAMS.**

19 (a) AUTHORITY TO PURSUE OPTIONS FOR STRENGTH-
20 ENING EXPORT CONTROL PROGRAMS.—The Secretary of En-
21 ergy, in coordination with the Secretary of State, may pursue
22 in the region of the former Soviet Union and other regions of
23 concern options for accelerating programs that assist the coun-
24 tries in such regions in improving their domestic export control
25 programs for materials, technologies, and expertise relevant to
26 the construction or use of a nuclear or radiological dispersal de-
27 vice.

28 (b) AMOUNT FOR ACTIVITIES.—Of the amount authorized
29 to be appropriated by section 3101(a)(2) for the Department
30 of Energy for the National Nuclear Security Administration for
31 defense nuclear nonproliferation, up to \$5,000,000 may be
32 available for carrying out this section.

33 **SEC. 3160. PLAN FOR ACCELERATED RETURN OF WEAP-**
34 **ONS-USABLE NUCLEAR MATERIALS.**

35 (a) PLAN FOR ACCELERATED RETURN.—The Secretary of
36 Energy shall work with the Russian Federation to develop a
37 plan to accelerate the return to Russia of all weapons-usable

1 nuclear materials located in research reactors and other facilities
2 outside Russia that were supplied by the former Soviet
3 Union.

4 (b) FUNDING AND SCHEDULES.—As part of the plan
5 under subsection (a), the Secretary shall identify the funding
6 and schedules required to assist the research reactors and facilities
7 referred to in that subsection in—

8 (1) transferring highly enriched uranium to Russia;
9 and

10 (2) upgrading the materials protection, control, and
11 accounting procedures at such research reactors and facilities
12 until the weapons-usable nuclear materials in such reactors
13 and facilities are returned in accordance with that
14 subsection.

15 (c) COORDINATION.—The provision of assistance under
16 subsection (b) shall be closely coordinated with the International
17 Atomic Energy Agency.

18 **SEC. 3161. SENSE OF CONGRESS ON AMENDMENT OF**
19 **CONVENTION ON PHYSICAL PROTECTION OF**
20 **NUCLEAR MATERIALS.**

21 (a) SENSE OF CONGRESS.—It is the sense of Congress
22 that the President should encourage amendment of the Convention
23 on the Physical Protection of Nuclear Materials in order
24 to provide that the Convention shall—

25 (1) apply to both the domestic and international use
26 and transport of nuclear materials;

27 (2) incorporate fundamental practices for the physical
28 protection of such materials; and

29 (3) address protection against sabotage involving nuclear
30 materials.

31 (b) CONVENTION ON THE PHYSICAL PROTECTION OF NUCLEAR
32 MATERIAL DEFINED.—In this section, the term “Convention on the
33 Physical Protection of Nuclear Materials” means the Convention on the
34 Physical Protection of Nuclear Materials, With Annex, done at Vienna
35 on October 26, 1979.

1 **SEC. 3162. SENSE OF CONGRESS ON PROGRAM TO SE-**
2 **CURE STOCKPILES OF HIGHLY ENRICHED**
3 **URANIUM AND PLUTONIUM.**

4 It is the sense of Congress that the Secretary of Energy
5 should, in consultation with the Secretary of State and Sec-
6 retary of Defense, develop a comprehensive program of activi-
7 ties to encourage all countries with nuclear materials to adhere
8 to, or to adopt standards equivalent to, the International Atom-
9 ic Energy Agency standard on The Physical Protection of Nu-
10 clear Material and Nuclear Facilities (INFCIRC/225/Rev.4),
11 relating to the security of stockpiles of highly enriched uranium
12 (HEU) and plutonium (Pu).

13 **Subtitle D—Other Matters**

14 **SEC. 3171. INDEMNIFICATION OF DEPARTMENT OF EN-**
15 **ERGY CONTRACTORS.**

16 Section 170 d.(1)(A) of the Atomic Energy Act of 1954
17 (42 U.S.C. 2210(d)(1)(A)) is amended by striking “until Au-
18 gust 1, 2002,” and inserting “until December 31, 2004,”.

19 **SEC. 3172. SUPPORT FOR PUBLIC EDUCATION IN THE VI-**
20 **CINITY OF LOS ALAMOS NATIONAL LABORA-**
21 **TORY, NEW MEXICO.**

22 (a) SUPPORT FOR FISCAL YEAR 2003.—From amounts
23 authorized to be appropriated to the Secretary of Energy by
24 this title, \$6,900,000 shall be available for payment by the Sec-
25 retary for fiscal year 2003 to the Los Alamos National Labora-
26 tory Foundation, a not-for-profit foundation chartered as de-
27 scribed in section 3167(a) of the National Defense Authoriza-
28 tion Act for Fiscal Year 1998 (Public Law 105–85; 111 Stat.
29 2052).

30 (b) USE OF FUNDS.—The foundation referred to in sub-
31 section (a) shall—

32 (1) utilize funds provided under this section as a con-
33 tribution to the endowment fund for the foundation; and

34 (2) use the income generated from investments in the
35 endowment fund that are attributable to the payment made
36 under this section to fund programs to support the edu-
37 cational needs of children in the public schools in the vicin-
38 ity of Los Alamos National Laboratory, New Mexico.

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1 (c) REPEAL OF SUPERSEDED AUTHORITY AND MODIFICA-
2 TION OF AUTHORITY TO EXTEND CONTRACT.—(1) Subsection
3 (b) of section 3136 of the National Defense Authorization Act
4 for Fiscal Year 2002 (Public Law 107–107; 115 Stat. 1368)
5 is amended to read as follows:

6 “(b) SUPPORT FOR FISCAL YEARS 2003 THROUGH
7 2005.—Subject to the availability of appropriations, the Sec-
8 retary may provide for a contract extension through fiscal year
9 2005 similar to the contract extension referred to in subsection
10 (a)(2).”.

11 (2) The amendment made by paragraph (1) shall take ef-
12 fect on October 1, 2002.

13 (d) REPORT.—(1) The Secretary of Energy, in consulta-
14 tion with the Administrator for Nuclear Security, shall conduct
15 a study of options for funding the contract extension author-
16 ized by subsection (b) of such section 3136 (as amended by
17 subsection (c)) other than through annual appropriations. The
18 study should also include options for providing cost of living
19 adjustments to teachers in the public schools in the vicinity of
20 Los Alamos National Laboratory, New Mexico, other than
21 through such contract extension.

22 (2) Not later than December 31, 2003, the Secretary shall
23 submit to the congressional defense committees a report on the
24 study conducted under paragraph (1). The report shall set
25 forth the findings and conclusions of the study, together with
26 any recommendations as a result of the study.

27 **SEC. 3173. WORKER HEALTH AND SAFETY RULES FOR**
28 **DEPARTMENT OF ENERGY NUCLEAR FACILI-**
29 **TIES.**

30 (a) WORKER HEALTH AND SAFETY RULES.—The Atomic
31 Energy Act of 1954 is amended by inserting after section 234B
32 (42 U.S.C. 2282b) the following new section:

33 **“SEC. 234C. WORKER HEALTH AND SAFETY RULES FOR**
34 **DEPARTMENT OF ENERGY NUCLEAR FACILI-**
35 **TIES.**

36 “a. REGULATIONS REQUIRED.—

37 “(1) IN GENERAL.—The Secretary shall promulgate
38 regulations for industrial and construction health and safe-

31–26

1 ty at Department of Energy facilities that are operated by
2 contractors covered by agreements of indemnification under
3 section 170 d. of the Atomic Energy Act of 1954, after
4 public notice and opportunity for comment under section
5 553 of title 5, United States Code (commonly known as the
6 ‘Administrative Procedure Act’). Such regulations shall,
7 subject to paragraph (3), provide a level of protection for
8 workers at such facilities that is substantially equivalent to
9 the level of protection currently provided to such workers
10 at such facilities.

11 “(2) APPLICABILITY.—The regulations promulgated
12 under paragraph (1) shall not apply to any facility that is
13 a component of, or any activity conducted under, the Naval
14 Nuclear Propulsion Program provided for under Executive
15 Order No. 12344, dated February 1, 1982 (42 U.S.C.
16 7158 note) (as in force pursuant to section 1634 of the De-
17 partment of Defense Authorization Act, 1985 (Public Law
18 98–525; 42 U.S.C. 7158 note)).

19 “(3) FLEXIBILITY.—In promulgating the regulations
20 under paragraph (1), the Secretary shall include
21 flexibility—

22 “(A) to tailor implementation of such regulations
23 to reflect activities and hazards associated with a par-
24 ticular work environment;

25 “(B) to take into account special circumstances at
26 a facility that is, or is expected to be, permanently
27 closed and that is expected to be demolished, or title
28 to which is expected to be transferred to another entity
29 for reuse; and

30 “(C) to achieve national security missions of the
31 Department of Energy in an efficient and timely man-
32 ner.

33 “(4) NO EFFECT ON HEALTH AND SAFETY ENFORCE-
34 MENT.—This subsection does not diminish or otherwise af-
35 fect the enforcement or the application of any other law,
36 regulation, order, or contractual obligation relating to
37 worker health and safety.

1 “b. CIVIL PENALTIES.—

2 “(1) IN GENERAL.—A person (or any subcontractor or
3 supplier of the person) who has entered into an agreement
4 of indemnification under section 170 d. (or any subcon-
5 tractor or supplier of the person) that violates (or is the
6 employer of a person that violates) any regulation promul-
7 gated under subsection a. shall be subject to a civil penalty
8 of not more than \$70,000 for each such violation.

9 “(2) CONTINUING VIOLATIONS.—If any violation
10 under this subsection is a continuing violation, each day of
11 the violation shall constitute a separate violation for the
12 purpose of computing the civil penalty under paragraph
13 (1).

14 “c. CONTRACT PENALTIES.—

15 “(1) IN GENERAL.—The Secretary shall include in
16 each contract with a contractor of the Department who has
17 entered into an agreement of indemnification under section
18 170 d. provisions that provide an appropriate reduction in
19 the fees or amounts paid to the contractor under the con-
20 tract in the event of a violation by the contractor or con-
21 tractor employee of any regulation promulgated under sub-
22 section a.

23 “(2) CONTENTS.—The provisions shall specify various
24 degrees of violations and the amount of the reduction at-
25 tributable to each degree of violation.

26 “d. COORDINATION OF PENALTIES.—

27 “(1) CHOICE OF PENALTIES.—For any violation by a
28 person of a regulation promulgated under subsection a., the
29 Secretary shall pursue either civil penalties under sub-
30 section b. or contract penalties under subsection c., but not
31 both.

32 “(2) MAXIMUM AMOUNT.—In the case of an entity de-
33 scribed in subsection d. of section 234A, the total amount
34 of civil penalties under subsection b. and contract penalties
35 under subsection c. in a fiscal year may not exceed the
36 total amount of fees paid by the Department of Energy to
37 that entity in that fiscal year.

1 (2) in subsection (g), by striking “three years” and all
2 that follows through the period at the end and inserting
3 “April 1, 2003.”; and

4 (3) by adding at the end the following new subsection:
5 “(i) FOLLOW-UP REPORT.—Not later than February 1,
6 2003, the panel shall submit to the Committee on Armed Serv-
7 ices of the Senate and the Committee on Armed Services of the
8 House of Representatives a follow-up report assessing progress
9 toward meeting the expectations set forth by the panel for the
10 United States stockpile stewardship program, and making rec-
11 ommendations for corrective legislative action where progress
12 has been unsatisfactory.”.

13 **SEC. 3176. REPORT ON STATUS OF ENVIRONMENTAL**
14 **MANAGEMENT INITIATIVES TO ACCELERATE**
15 **THE REDUCTION OF ENVIRONMENTAL RISKS**
16 **AND CHALLENGES POSED BY THE LEGACY**
17 **OF THE COLD WAR.**

18 (a) REPORT REQUIRED.—The Secretary of Energy shall
19 prepare a report on the status of those environmental manage-
20 ment initiatives specified in subsection (c) that are being un-
21 dertaken to accelerate the reduction of the environmental risks
22 and challenges that, as a result of the legacy of the Cold War,
23 are faced by the Department of Energy, contractors of the De-
24 partment, and applicable Federal and State agencies with regu-
25 latory jurisdiction.

26 (b) CONTENTS.—The report shall include the following
27 matters:

28 (1) A discussion of the progress made in reducing
29 such risks and challenges in each of the following areas:

30 (A) Acquisition strategy and contract manage-
31 ment.

32 (B) Regulatory agreements.

33 (C) Interim storage and final disposal of high-level
34 waste, spent nuclear fuel, transuranic waste, and low-
35 level waste.

36 (D) Closure and transfer of environmental remedi-
37 ation sites.

31–30

1 (E) Achievements in innovation by contractors of
2 the Department with respect to accelerated risk reduc-
3 tion and cleanup.

4 (F) Consolidation of special nuclear materials and
5 improvements in safeguards and security.

6 (2) An assessment of the progress made in stream-
7 lining risk reduction processes of the environmental man-
8 agement program of the Department.

9 (3) An assessment of the progress made in improving
10 the responsiveness and effectiveness of the environmental
11 management program of the Department.

12 (4) Any proposals for legislation that the Secretary
13 considers necessary to carry out such initiatives, including
14 the justification for each such proposal.

15 (c) INITIATIVES COVERED.—The environmental manage-
16 ment initiatives referred to in subsection (a) are the initiatives
17 arising out of the report titled “Top-to-Bottom Review of the
18 Environmental Management Program” and dated February 4,
19 2002, with respect to the environmental restoration and waste
20 management activities of the Department of Energy in carrying
21 out programs necessary for national security.

22 (d) SUBMISSION OF REPORT.—On the date on which the
23 budget justification materials in support of the Department of
24 Energy budget for fiscal year 2004 (as submitted with the
25 budget of the President under section 1105(a) of title 31,
26 United States Code) are submitted to Congress, the Secretary
27 shall submit to the congressional defense committees the report
28 required by subsection (a).

29 **Subtitle E—Disposition of Weapons-**
30 **Usable Plutonium at Savannah**
31 **River, South Carolina**

32 **SEC. 3181. FINDINGS.**

33 Congress makes the following findings:

34 (1) In September 2000, the United States and the
35 Russian Federation signed a Plutonium Management and

31–31

1 Disposition Agreement by which each agreed to dispose of
2 34 metric tons of weapons-grade plutonium.

3 (2) The agreement with Russia is a significant step to-
4 ward safeguarding nuclear materials and preventing their
5 diversion to rogue states and terrorists.

6 (3) The Department of Energy plans to dispose of 34
7 metric tons of weapons-grade plutonium in the United
8 States before the end of 2019 by converting the plutonium
9 to a mixed-oxide fuel to be used in commercial nuclear
10 power reactors.

11 (4) The Department has formulated a plan for imple-
12 menting the agreement with Russia through construction of
13 a mixed-oxide fuel fabrication facility, the so-called MOX
14 facility, and a pit disassembly and conversion facility at the
15 Savannah River Site, Aiken, South Carolina.

16 (5) The United States and the State of South Carolina
17 have a compelling interest in the safe, proper, and efficient
18 operation of the plutonium disposition facilities at the Sa-
19 vannah River Site. The MOX facility will also be economi-
20 cally beneficial to the State of South Carolina, and that
21 economic benefit will not be fully realized unless the MOX
22 facility is built.

23 (6) The State of South Carolina desires to ensure that
24 all plutonium transferred to the State of South Carolina is
25 stored safely; that the full benefits of the MOX facility are
26 realized as soon as possible; and, specifically, that all de-
27 fense plutonium or defense plutonium materials transferred
28 to the Savannah River Site either be processed or be re-
29 moved expeditiously.

30 **SEC. 3182. DISPOSITION OF WEAPONS-USABLE PLUTO-**
31 **NIUM AT SAVANNAH RIVER SITE.**

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

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

31–32

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

5 (B) a schedule of operations of the MOX facility de-
6 signed so that 34 metric tons of defense plutonium and de-
7 fense plutonium materials at the Savannah River Site will
8 be processed into mixed-oxide fuel by January 1, 2019.

9 (3)(A) Not later than February 15 each year, beginning
10 in 2004 and continuing for as long as the MOX facility is in
11 use, the Secretary shall submit to Congress a report on the im-
12 plementation of the plan required by paragraph (1).

13 (B) Each report under subparagraph (A) for years before
14 2010 shall include—

15 (i) an assessment of compliance with the schedules in-
16 cluded with the plan under paragraph (2); and

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

19 (C) Each report under subparagraph (A) for years after
20 2009 shall—

21 (i) address whether the MOX production objective has
22 been met; and

23 (ii) assess progress toward meeting the obligations of
24 the United States under the Plutonium Management and
25 Disposition Agreement.

26 (D) Each report under subparagraph (A) for years after
27 2017 shall also include an assessment of compliance with the
28 MOX production objective and, if not in compliance, the plan
29 of the Secretary for achieving one of the following:

30 (i) Compliance with such objective.

31 (ii) Removal of all remaining defense plutonium and
32 defense plutonium materials from the State of South Caro-
33 lina.

34 (b) CORRECTIVE ACTIONS.—(1) If a report under sub-
35 section (a)(3) indicates that construction or operation of the
36 MOX facility is behind the applicable schedule under subsection
37 (a)(2) by 12 months or more, the Secretary shall submit to

31–33

1 Congress, not later than August 15 of the year in which such
2 report is submitted, a plan for corrective actions to be imple-
3 mented by the Secretary to ensure that the MOX facility
4 project is capable of meeting the MOX production objective by
5 January 1, 2009.

6 (2) If a plan is submitted under paragraph (1) in any year
7 after 2008, the plan shall include corrective actions to be imple-
8 mented by the Secretary to ensure that the MOX production
9 objective is met.

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

13 (4) If, before January 1, 2009, the Secretary determines
14 that there is a substantial and material risk that the MOX pro-
15 duction objective will not be achieved by 2009 because of a fail-
16 ure to achieve milestones set forth in the most recent corrective
17 action plan under this subsection, the Secretary shall suspend
18 further transfers of defense plutonium and defense plutonium
19 materials to be processed by the MOX facility until such risk
20 is addressed and the Secretary certifies that the MOX produc-
21 tion objective can be met by 2009.

22 (5) If, after January 1, 2009, the Secretary determines
23 that the MOX production objective has not been achieved be-
24 cause of a failure to achieve milestones set forth in the most
25 recent corrective action plan under this subsection, the Sec-
26 retary shall suspend further transfers of defense plutonium and
27 defense plutonium materials to be processed by the MOX facil-
28 ity until the Secretary certifies that the MOX production objec-
29 tive can be met.

30 (6)(A) Upon making a determination under paragraph (4)
31 or (5), the Secretary shall submit to Congress a report on the
32 options for removing from the State of South Carolina an
33 amount of defense plutonium or defense plutonium materials
34 equal to the amount of defense plutonium or defense plutonium
35 materials transferred to the State of South Carolina after April
36 15, 2002.

31–34

1 (B) Each report under subparagraph (A) shall include an
2 analysis of each option set forth in the report, including the
3 cost and schedule for implementation of such option, and any
4 requirements under the National Environmental Policy Act of
5 1969 (42 U.S.C. 4321 et seq.) relating to consideration or se-
6 lection of such option.

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

11 (c) CONTINGENT REQUIREMENT FOR REMOVAL OF PLU-
12 TONIUM AND MATERIALS FROM SAVANNAH RIVER SITE.—If
13 the MOX production objective is not achieved as of January 1,
14 2009, the Secretary shall, consistent with the National Envi-
15 ronmental Policy Act of 1969 and other applicable laws, remove
16 from the State of South Carolina, for storage or disposal
17 elsewhere—

18 (1) not later than January 1, 2011, not less than 1
19 metric ton of defense plutonium or defense plutonium ma-
20 terials; and

21 (2) not later than January 1, 2017, an amount of de-
22 fense plutonium or defense plutonium materials equal to
23 the amount of defense plutonium or defense plutonium ma-
24 terials transferred to the Savannah River Site between
25 April 15, 2002 and January 1, 2017, but not processed by
26 the MOX facility.

27 (d) ECONOMIC AND IMPACT ASSISTANCE.—(1) If the
28 MOX production objective is not achieved as of January 1,
29 2011, the Secretary shall, from funds available to the Sec-
30 retary, pay to the State of South Carolina each year beginning
31 on or after that date through 2016 for economic and impact
32 assistance an amount equal to \$1,000,000 per day, not to ex-
33 ceed \$100,000,000 per year, until the later of—

34 (A) the date on which the MOX production objective
35 is achieved in such year; or

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1 (B) the date on which the Secretary has removed from
2 the State of South Carolina in such year at least 1 metric
3 ton of defense plutonium or defense plutonium materials.

4 (2)(A) If, as of January 1, 2017, the MOX facility has not
5 processed mixed-oxide fuel from defense plutonium and defense
6 plutonium materials in the amount of not less than—

7 (i) one metric ton, in each of any two consecutive cal-
8 endar years; and

9 (ii) three metric tons total,

10 the Secretary shall, from funds available to the Secretary, pay
11 to the State of South Carolina for economic and impact assist-
12 ance an amount equal to \$1,000,000 per day, not to exceed
13 \$100,000,000 per year, until the removal by the Secretary from
14 the State of South Carolina of an amount of defense plutonium
15 or defense plutonium materials equal to the amount of defense
16 plutonium or defense plutonium materials transferred to the
17 Savannah River Site between April 15, 2002, and January 1,
18 2017, but not processed by the MOX facility.

19 (B) Nothing in this paragraph may be construed to termi-
20 nate, supersede, or otherwise affect any other requirements of
21 this section.

22 (3) If the State of South Carolina obtains an injunction
23 that prohibits the Department from taking any action nec-
24 essary for the Department to meet any deadline specified by
25 this subsection, that deadline shall be extended for a period of
26 time equal to the period of time during which the injunction
27 is in effect.

28 (e) FAILURE TO COMPLETE PLANNED DISPOSITION PRO-
29 GRAM.—If on July 1 each year beginning in 2020 and con-
30 tinuing for as long as the MOX facility is in use, less than 34
31 metric tons of defense plutonium or defense plutonium mate-
32 rials have been processed by the MOX facility, the Secretary
33 shall submit to Congress a plan for—

34 (1) completing the processing of 34 metric tons of de-
35 fense plutonium and defense plutonium material by the
36 MOX facility; or

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1 (2) removing from the State of South Carolina an
2 amount of defense plutonium or defense plutonium mate-
3 rials equal to the amount of defense plutonium or defense
4 plutonium materials transferred to the Savannah River Site
5 after April 15, 2002, but not processed by the MOX facil-
6 ity.

7 (f) REMOVAL OF MIXED-OXIDE FUEL UPON COMPLETION
8 OF OPERATIONS OF MOX FACILITY.—If, one year after the
9 date on which operation of the MOX facility permanently
10 ceases, any mixed-oxide fuel remains at the Savannah River
11 Site, the Secretary shall submit to Congress—

12 (1) a report on when such fuel will be transferred for
13 use in commercial nuclear reactors; or

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

16 (g) DEFINITIONS.—In this section:

17 (1) MOX PRODUCTION OBJECTIVE.—The term “MOX
18 production objective” means production at the MOX facil-
19 ity of mixed-oxide fuel from defense plutonium and defense
20 plutonium materials at an average rate equivalent to not
21 less than one metric ton of mixed-oxide fuel per year. The
22 average rate shall be determined by measuring production
23 at the MOX facility from the date the facility is declared
24 operational to the Nuclear Regulatory Commission through
25 the date of assessment.

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

29 (3) DEFENSE PLUTONIUM; DEFENSE PLUTONIUM MA-
30 TERIALS.—The terms “defense plutonium” and “defense
31 plutonium materials” mean weapons-usable plutonium.

32 **SEC. 3183. STUDY OF FACILITIES FOR STORAGE OF PLU-**
33 **TONIUM AND PLUTONIUM MATERIALS AT SA-**
34 **VANNAH RIVER SITE.**

35 (a) STUDY.—The Defense Nuclear Facilities Safety Board
36 shall conduct a study of the adequacy of the K-Area Materials
37 Storage facility (KAMS), and related support facilities such as

31–37

1 Building 235–F, at the Savannah River Site, Aiken, South
2 Carolina, for the storage of defense plutonium and defense plu-
3 tonium materials in connection with the disposition program
4 provided in section 3182 and in connection with the amended
5 Record of Decision of the Department of Energy for fissile ma-
6 terials disposition.

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

11 (c) REPORT ELEMENTS.—The report under subsection (b)
12 shall—

13 (1) address—

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

18 (B) the adequacy of the provisions made by the
19 Department for remote monitoring of such defense plu-
20 tonium and defense plutonium materials by way of sen-
21 sors and for handling of retrieval of such defense pluto-
22 nium and defense plutonium materials; and

23 (C) the adequacy of KAMS should such defense
24 plutonium and defense plutonium materials continue to
25 be stored at KAMS after 2019; and

26 (2) include such proposals as the Defense Nuclear Fa-
27 cilities Safety Board considers appropriate to enhance the
28 safety, reliability, and functionality of KAMS.

29 (d) REPORTS ON ACTIONS ON PROPOSALS.—Not later
30 than 6 months after the date on which the report under sub-
31 section (b) is submitted to Congress, and every year thereafter,
32 the Secretary and the Board shall each submit to Congress a
33 report on the actions taken by the Secretary in response to the
34 proposals, if any, included in the report.

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1 **TITLE XXXII—DEFENSE NUCLEAR**
2 **FACILITIES SAFETY BOARD**

Sec. 3201. Authorization.

3 **SEC. 3201. AUTHORIZATION.**

4 There are authorized to be appropriated for fiscal year
5 2003, \$19,000,000 for the operation of the Defense Nuclear
6 Facilities Safety Board under chapter 21 of the Atomic Energy
7 Act of 1954 (42 U.S.C. 2286 et seq.).

1 **TITLE XXXIII—NATIONAL DEFENSE**
2 **STOCKPILE**

Sec. 3301. Authorized uses of National Defense Stockpile funds.

3 **SEC. 3301. AUTHORIZED USES OF NATIONAL DEFENSE**
4 **STOCKPILE FUNDS.**

5 (a) OBLIGATION OF STOCKPILE FUNDS.—During fiscal
6 year 2003, the National Defense Stockpile Manager may obli-
7 gate up to \$76,400,000 of the funds in the National Defense
8 Stockpile Transaction Fund established under subsection (a) of
9 section 9 of the Strategic and Critical Materials Stock Piling
10 Act (50 U.S.C. 98h) for the authorized uses of such funds
11 under subsection (b)(2) of such section, including the disposal
12 of hazardous materials that are environmentally sensitive.

13 (b) ADDITIONAL OBLIGATIONS.—The National Defense
14 Stockpile Manager may obligate amounts in excess of the
15 amount specified in subsection (a) if the National Defense
16 Stockpile Manager notifies Congress that extraordinary or
17 emergency conditions necessitate the additional obligations. The
18 National Defense Stockpile Manager may make the additional
19 obligations described in the notification after the end of the 45-
20 day period beginning on the date on which Congress receives
21 the notification.

22 (c) LIMITATIONS.—The authorities provided by this sec-
23 tion shall be subject to such limitations as may be provided in
24 appropriations Acts.

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1 **TITLE XXXVI—ATOMIC ENERGY**
2 **DEFENSE PROVISIONS**

Sec. 3601. Short title.

Subtitle A—[Reserved]

**Subtitle B—Department of Energy National Security
Authorizations General Provisions**

Sec. 3620. Definitions.

Sec. 3621. Reprogramming.

Sec. 3622. Minor construction projects.

Sec. 3623. Limits on construction projects.

Sec. 3624. Fund transfer authority.

Sec. 3625. Conceptual and construction design.

Sec. 3626. Authority for emergency planning, design, and construction activities.

Sec. 3627. Scope of authority to carry out plant projects.

Sec. 3628. Availability of funds.

Sec. 3629. Transfer of defense environmental management funds.

Sec. 3630. Transfer of weapons activities funds.

Sec. 3631. Funds available for all national security programs of the Department of Energy.

3 **SEC. 3601. SHORT TITLE.**

4 This title may be cited as the “Atomic Energy Defense
5 Act”.

6 **Subtitle A—[Reserved]**

7 **Subtitle B—Department of Energy**
8 **National Security Authorizations**
9 **General Provisions**

10 **SEC. 3620. DEFINITIONS.**

11 In this subtitle:

12 (1) The term “DOE national security authorization”
13 means an authorization of appropriations for activities of
14 the Department of Energy in carrying out programs necessary
15 for national security.

16 (2) The term “congressional defense committees”
17 means—

18 (A) the Committee on Armed Services and the
19 Committee on Appropriations of the Senate; and

20 (B) the Committee on Armed Services and the
21 Committee on Appropriations of the House of Representatives.
22

1 (3) The term “minor construction threshold” means
2 \$5,000,000.

3 **SEC. 3621. REPROGRAMMING.**

4 (a) IN GENERAL.—Except as provided in subsection (b)
5 and in sections 3629 and 3630, the Secretary of Energy may
6 not use amounts appropriated pursuant to a DOE national se-
7 curity authorization for a program—

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

9 (A) 115 percent of the amount authorized for that
10 program by that authorization for that fiscal year; or

11 (B) \$5,000,000 more than the amount authorized
12 for that program by that authorization for that fiscal
13 year; or

14 (2) which has not been presented to, or requested of,
15 Congress.

16 (b) EXCEPTION WHERE NOTICE-AND-WAIT GIVEN.—An
17 action described in subsection (a) may be taken if—

18 (1) the Secretary submits to the congressional defense
19 committees a report referred to in subsection (c) with re-
20 spect to such action; and

21 (2) a period of 30 days has elapsed after the date on
22 which such committees receive the report.

23 (c) REPORT.—The report referred to in subsection (a) is
24 a report containing a full and complete statement of the action
25 proposed to be taken and the facts and circumstances relied
26 upon in support of the proposed action.

27 (d) COMPUTATION OF DAYS.—In the computation of the
28 30-day period under subsection (b), there shall be excluded any
29 day on which either House of Congress is not in session be-
30 cause of an adjournment of more than three days to a day cer-
31 tain.

32 (e) LIMITATIONS.—

33 (1) TOTAL AMOUNT OBLIGATED.—In no event may the
34 total amount of funds obligated pursuant to a DOE na-
35 tional security authorization for a fiscal year exceed the
36 total amount authorized to be appropriated by that author-
37 ization for that fiscal year.

1 (2) PROHIBITED ITEMS.—Funds appropriated pursu-
2 ant to a DOE national security authorization may not be
3 used for an item for which Congress has specifically denied
4 funds.

5 **SEC. 3622. MINOR CONSTRUCTION PROJECTS.**

6 (a) AUTHORITY.—Using operation and maintenance funds
7 or facilities and infrastructure funds authorized by a DOE na-
8 tional security authorization, the Secretary of Energy may
9 carry out minor construction projects.

10 (b) ANNUAL REPORT.—The Secretary shall submit to the
11 congressional defense committees on an annual basis a report
12 on each exercise of the authority in subsection (a) during the
13 preceding fiscal year. Each report shall provide a brief descrip-
14 tion of each minor construction project covered by the report.

15 (c) COST VARIATION REPORTS TO CONGRESSIONAL COM-
16 MITTEES.—If, at any time during the construction of any
17 minor construction project authorized by a DOE national secu-
18 rity authorization, the estimated cost of the project is revised
19 and the revised cost of the project exceeds the minor construc-
20 tion threshold, the Secretary shall immediately submit to the
21 congressional defense committees a report explaining the rea-
22 sons for the cost variation.

23 (d) MINOR CONSTRUCTION PROJECT DEFINED.—In this
24 section, the term “minor construction project” means any plant
25 project not specifically authorized by law for which the ap-
26 proved total estimated cost does not exceed the minor construc-
27 tion threshold.

28 **SEC. 3623. LIMITS ON CONSTRUCTION PROJECTS.**

29 (a) CONSTRUCTION COST CEILING.—Except as provided
30 in subsection (b), construction on a construction project which
31 is in support of national security programs of the Department
32 of Energy and was authorized by a DOE national security au-
33 thorization may not be started, and additional obligations in
34 connection with the project above the total estimated cost may
35 not be incurred, whenever the current estimated cost of the
36 construction project exceeds by more than 25 percent the high-
37 er of—

- 1 (1) the amount authorized for the project; or
2 (2) the amount of the total estimated cost for the
3 project as shown in the most recent budget justification
4 data submitted to Congress.

5 (b) EXCEPTION WHERE NOTICE-AND-WAIT GIVEN.—An
6 action described in subsection (a) may be taken if—

- 7 (1) the Secretary of Energy has submitted to the con-
8 gressional defense committees a report on the actions and
9 the circumstances making such action necessary; and
10 (2) a period of 30 days has elapsed after the date on
11 which the report is received by the committees.

12 (c) COMPUTATION OF DAYS.—In the computation of the
13 30-day period under subsection (b), there shall be excluded any
14 day on which either House of Congress is not in session be-
15 cause of an adjournment of more than three days to a day cer-
16 tain.

17 (d) EXCEPTION FOR MINOR PROJECTS.—Subsection (a)
18 does not apply to a construction project with a current esti-
19 mated cost of less than the minor construction threshold.

20 **SEC. 3624. FUND TRANSFER AUTHORITY.**

21 (a) TRANSFER TO OTHER FEDERAL AGENCIES.—The Sec-
22 retary of Energy may transfer funds authorized to be appro-
23 priated to the Department of Energy pursuant to a DOE na-
24 tional security authorization to other Federal agencies for the
25 performance of work for which the funds were authorized.
26 Funds so transferred may be merged with and be available for
27 the same purposes and for the same time period as the author-
28 izations of the Federal agency to which the amounts are trans-
29 ferred.

30 (b) TRANSFER WITHIN DEPARTMENT OF ENERGY.—

- 31 (1) TRANSFERS PERMITTED.—Subject to paragraph
32 (2), the Secretary of Energy may transfer funds authorized
33 to be appropriated to the Department of Energy pursuant
34 to a DOE national security authorization to any other
35 DOE national security authorization. Amounts of author-
36 izations so transferred may be merged with and be avail-

1 able for the same purposes and for the same period as the
2 authorization to which the amounts are transferred.

3 (2) MAXIMUM AMOUNTS.—Not more than 5 percent of
4 any such authorization may be transferred to another au-
5 thorization under paragraph (1). No such authorization
6 may be increased or decreased by more than 5 percent by
7 a transfer under such paragraph.

8 (c) LIMITATIONS.—The authority provided by this sub-
9 section to transfer authorizations—

10 (1) may be used only to provide funds for items relat-
11 ing to activities necessary for national security programs
12 that have a higher priority than the items from which the
13 funds are transferred; and

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

16 (d) NOTICE TO CONGRESS.—The Secretary of Energy
17 shall promptly notify the congressional defense committees of
18 any transfer of funds to or from any DOE national security au-
19 thorization.

20 **SEC. 3625. CONCEPTUAL AND CONSTRUCTION DESIGN.**

21 (a) CONCEPTUAL DESIGN.—

22 (1) REQUIREMENT.—Subject to paragraph (2) and ex-
23 cept as provided in paragraph (3), before submitting to
24 Congress a request for funds for a construction project that
25 is in support of a national security program of the Depart-
26 ment of Energy, the Secretary of Energy shall complete a
27 conceptual design for that project.

28 (2) REQUESTS FOR CONCEPTUAL DESIGN FUNDS.—If
29 the estimated cost of completing a conceptual design for a
30 construction project exceeds \$3,000,000, the Secretary
31 shall submit to Congress a request for funds for the con-
32 ceptual design before submitting a request for funds for the
33 construction project.

34 (3) EXCEPTIONS.—The requirement in paragraph (1)
35 does not apply to a request for funds—

36–6

1 (A) for a construction project the total estimated
2 cost of which is less than the minor construction
3 threshold; or

4 (B) for emergency planning, design, and construc-
5 tion activities under section 3626.

6 (b) CONSTRUCTION DESIGN.—

7 (1) AUTHORITY.—Within the amounts authorized by a
8 DOE national security authorization, the Secretary may
9 carry out construction design (including architectural and
10 engineering services) in connection with any proposed con-
11 struction project if the total estimated cost for such design
12 does not exceed \$600,000.

13 (2) LIMITATION ON AVAILABILITY OF FUNDS FOR CER-
14 TAIN PROJECTS.—If the total estimated cost for construc-
15 tion design in connection with any construction project ex-
16 ceeds \$600,000, funds for that design must be specifically
17 authorized by law.

18 **SEC. 3626. AUTHORITY FOR EMERGENCY PLANNING, DE-**
19 **SIGN, AND CONSTRUCTION ACTIVITIES.**

20 (a) AUTHORITY.—The Secretary of Energy may use any
21 funds available to the Department of Energy pursuant to a
22 DOE national security authorization, including funds author-
23 ized to be appropriated for advance planning, engineering, and
24 construction design, and for plant projects, to perform plan-
25 ning, design, and construction activities for any Department of
26 Energy national security program construction project that, as
27 determined by the Secretary, must proceed expeditiously in
28 order to protect public health and safety, to meet the needs of
29 national defense, or to protect property.

30 (b) LIMITATION.—The Secretary may not exercise the au-
31 thority under subsection (a) in the case of a construction
32 project until the Secretary has submitted to the congressional
33 defense committees a report on the activities that the Secretary
34 intends to carry out under this section and the circumstances
35 making those activities necessary.

1 (c) SPECIFIC AUTHORITY.—The requirement of section
2 3625(b)(2) does not apply to emergency planning, design, and
3 construction activities conducted under this section.

4 **SEC. 3627. SCOPE OF AUTHORITY TO CARRY OUT PLANT**
5 **PROJECTS.**

6 In carrying out programs necessary for national security,
7 the authority of the Secretary of Energy to carry out plant
8 projects includes authority for maintenance, restoration, plan-
9 ning, construction, acquisition, modification of facilities, and
10 the continuation of projects authorized in prior years, and land
11 acquisition related thereto.

12 **SEC. 3628. AVAILABILITY OF FUNDS.**

13 (a) IN GENERAL.—Except as provided in subsection (b),
14 amounts appropriated pursuant to a DOE national security au-
15 thorization for operation and maintenance or for plant projects
16 may, when so specified in an appropriations Act, remain avail-
17 able until expended.

18 (b) EXCEPTION FOR PROGRAM DIRECTION FUNDS.—
19 Amounts appropriated for program direction pursuant to a
20 DOE national security athorization for a fiscal year shall re-
21 main available to be obligated only until the end of that fiscal
22 year.

23 **SEC. 3629. TRANSFER OF DEFENSE ENVIRONMENTAL**
24 **MANAGEMENT FUNDS.**

25 (a) TRANSFER AUTHORITY FOR DEFENSE ENVIRON-
26 MENTAL MANAGEMENT FUNDS.—The Secretary of Energy
27 shall provide the manager of each field office of the Depart-
28 ment of Energy with the authority to transfer defense environ-
29 mental management funds from a program or project under the
30 jurisdiction of that office to another such program or project.

31 (b) LIMITATIONS.—

32 (1) NUMBER OF TRANSFERS.—Not more than one
33 transfer may be made to or from any program or project
34 under subsection (a) in a fiscal year.

35 (2) AMOUNTS TRANSFERRED.—The amount trans-
36 ferred to or from a program or project in any one transfer
37 under subsection (a) may not exceed \$5,000,000.

1 (3) DETERMINATION REQUIRED.—A transfer may not
2 be carried out by a manager of a field office under sub-
3 section (a) unless the manager determines that the transfer
4 is necessary—

5 (A) to address a risk to health, safety, or the envi-
6 ronment; or

7 (B) to assure the most efficient use of defense en-
8 vironmental management funds at the field office.

9 (4) IMPERMISSIBLE USES.—Funds transferred pursu-
10 ant to subsection (a) may not be used for an item for which
11 Congress has specifically denied funds or for a new pro-
12 gram or project that has not been authorized by Congress.

13 (c) EXEMPTION FROM REPROGRAMMING REQUIRE-
14 MENTS.—The requirements of section 3621 shall not apply to
15 transfers of funds pursuant to subsection (a).

16 (d) NOTIFICATION.—The Secretary, acting through the
17 Assistant Secretary of Energy for Environmental Management,
18 shall notify Congress of any transfer of funds pursuant to sub-
19 section (a) not later than 30 days after such transfer occurs.

20 (e) DEFINITIONS.—In this section:

21 (1) The term “program or project” means, with re-
22 spect to a field office of the Department of Energy, a pro-
23 gram or project that is for environmental restoration or
24 waste management activities necessary for national security
25 programs of the Department, that is being carried out by
26 that office, and for which defense environmental manage-
27 ment funds have been authorized and appropriated.

28 (2) The term “defense environmental management
29 funds” means funds appropriated to the Department of
30 Energy pursuant to an authorization for carrying out envi-
31 ronmental restoration and waste management activities
32 necessary for national security programs.

33 **SEC. 3630. TRANSFER OF WEAPONS ACTIVITIES FUNDS.**

34 (a) TRANSFER AUTHORITY FOR WEAPONS ACTIVITIES
35 FUNDS.—The Secretary of Energy shall provide the manager
36 of each field office of the Department of Energy with the au-
37 thority to transfer weapons activities funds from a program or

1 project under the jurisdiction of that office to another such
2 program or project.

3 (b) LIMITATIONS.—

4 (1) NUMBER OF TRANSFERS.—Not more than one
5 transfer may be made to or from any program or project
6 under subsection (a) in a fiscal year.

7 (2) AMOUNTS TRANSFERRED.—The amount trans-
8 ferred to or from a program or project in any one transfer
9 under subsection (a) may not exceed \$5,000,000.

10 (3) DETERMINATION REQUIRED.—A transfer may not
11 be carried out by a manager of a field office under sub-
12 section (a) unless the manager determines that the
13 transfer—

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

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

17 (4) LIMITATION.—A transfer may not be carried out
18 by a manager of a field office under subsection (a) to cover
19 a cost overrun or scheduling delay for any program or
20 project.

21 (5) IMPERMISSIBLE USES.—Funds transferred pursu-
22 ant to subsection (a) may not be used for an item for which
23 Congress has specifically denied funds or for a new pro-
24 gram or project that has not been authorized by Congress.

25 (c) EXEMPTION FROM REPROGRAMMING REQUIRE-
26 MENTS.—The requirements of section 3621 shall not apply to
27 transfers of funds pursuant to subsection (a).

28 (d) NOTIFICATION.—The Secretary, acting through the
29 Administrator for Nuclear Security, shall notify Congress of
30 any transfer of funds pursuant to subsection (a) not later than
31 30 days after such transfer occurs.

32 (e) DEFINITIONS.—In this section:

33 (1) The term “program or project” means, with re-
34 spect to a field office of the Department of Energy, a pro-
35 gram or project that is for weapons activities necessary for
36 national security programs of the Department, that is

1 being carried out by that office, and for which weapons ac-
2 tivities funds have been authorized and appropriated.

3 (2) The term “weapons activities funds” means funds
4 appropriated to the Department of Energy pursuant to an
5 authorization for carrying out weapons activities necessary
6 for national security programs.

7 **SEC. 3631. FUNDS AVAILABLE FOR ALL NATIONAL SECU-**
8 **RITY PROGRAMS OF THE DEPARTMENT OF**
9 **ENERGY.**

10 Subject to the provisions of appropriation Acts and section
11 3621, amounts appropriated pursuant to a DOE national secu-
12 rity authorization for management and support activities and
13 for general plant projects are available for use, when necessary,
14 in connection with all national security programs of the De-
15 partment of Energy.

And the House agree to the same.