

106TH CONGRESS  
1ST SESSION

# S. 1812

To establish a commission on a nuclear testing treaty, and for other purposes.

---

IN THE SENATE OF THE UNITED STATES

OCTOBER 27, 1999

Mr. WARNER introduced the following bill; which was read twice and referred to the Committee on Foreign Relations

---

## A BILL

To establish a commission on a nuclear testing treaty, 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. ESTABLISHMENT OF PRESIDENTIAL AND SEN-**  
4                               **ATORIAL COMMISSION ON A NUCLEAR TEST-**  
5                               **ING TREATY.**

6       There is established a commission to be known as the  
7       Presidential and Senatorial Commission on a Nuclear  
8       Testing Treaty (in this Act referred to as the “Commis-  
9       sion”).

1 **SEC. 2. COMPOSITION AND QUALIFICATIONS.**

2 (a) MEMBERSHIP.—(1) The Commission shall be  
3 composed of 12 members, as follows:

4 (A) Six members shall be appointed by the Ma-  
5 jority Leader of the Senate.

6 (B) Six members shall be appointed by the Mi-  
7 nority Leader of the Senate.

8 (2) Of the members of the Commission appointed  
9 under each of subparagraphs (A) and (B) of paragraph  
10 (1)—

11 (A) not more than two members may be current  
12 employees of the Executive Branch; and

13 (B) the Legislative Branch shall be represented  
14 solely by not more than two Senators.

15 (3) The members of the Commission shall be persons  
16 of demonstrated ability and accomplishment in govern-  
17 ment who have a substantial background in national secu-  
18 rity matters.

19 (4) Each member of the Commission shall take the  
20 oath of office prescribed by section 3331 of title 5, United  
21 States Code.

22 (b) CO-CHAIRPERSONS.—(1) Subject to paragraph  
23 (2), two members of the Commission shall be designated  
24 as Co-Chairpersons of the Commission, and each shall  
25 have co-equal authority as Co-Chairperson of the Commis-  
26 sion.

1           (2)(A) The President shall designate one of the mem-  
2   bers of the Commission appointed by the Minority Leader  
3   of the Senate to serve as a Co-Chairperson of the Commis-  
4   sion.

5           (B) The Majority Leader of the Senate shall des-  
6   ignate one of the members of the Commission appointed  
7   by the Majority Leader to serve as a Co-Chairperson of  
8   the Commission.

9           (C) No individual designated as Co-Chairperson of  
10  the Commission may hold public office as of the time of  
11  designation as Co-Chairperson, nor may any individual ac-  
12  cept or hold any other public office or position during such  
13  individual's service as Co-Chairperson.

14          (c) PERIOD OF APPOINTMENT; VACANCIES.—Mem-  
15  bers shall be appointed for the duration of the Commis-  
16  sion. Any vacancy in the Commission shall not affect its  
17  powers but shall be filled in the same manner as the origi-  
18  nal appointment.

19          (d) DEADLINE FOR APPOINTMENTS.—The appoint-  
20  ments required by subsection (a) shall be made not later  
21  than 45 days after the date of the enactment of this Act.

22          (e) MEETINGS.—(1) The Commission shall meet at  
23  the call of the Co-Chairpersons of the Commission.

1           (2) The Commission shall hold its first meeting not  
2 later than 30 days after the deadline for appointments to  
3 the Commission under subsection (d).

4           (f) QUORUM.—Six members of the Commission vot-  
5 ing and present shall constitute a quorum, but a lesser  
6 number of members present may hold hearings, take testi-  
7 mony, or otherwise receive evidence.

8           (g) SECURITY CLEARANCES.—Appropriate security  
9 clearances shall be required for members of the Commis-  
10 sion who are private United States citizens. Such clear-  
11 ances shall be processed and completed on an expedited  
12 basis by appropriate elements of the Executive Branch of  
13 Government and shall, in any case, be completed within  
14 90 days of the date such members are appointed.

15           (h) APPLICATION OF CERTAIN PROVISIONS OF  
16 LAW.—(1) In light of the extraordinary and sensitive na-  
17 ture of its deliberations, the provisions of the Federal Ad-  
18 visory Committee Act (5 U.S.C. App.), and the regulations  
19 prescribed by the Administrator of General Services pur-  
20 suant to that Act, shall not apply to the Commission.

21           (2) The provisions of section 552 of title 5, United  
22 States Code (commonly known as the “Freedom of Infor-  
23 mation Act”), shall not apply to the Commission. How-  
24 ever, records of the Commission shall be subject to the  
25 Federal Records Act and, when transferred to the Na-

1 tional Archives and Records Agency, shall no longer be  
2 exempt from the provisions of such section 552.

3 **SEC. 3. DUTIES OF THE COMMISSION.**

4 (a) IN GENERAL.—It shall be the duty of the  
5 Commission—

6 (1) to determine under what circumstances a  
7 nuclear testing treaty would be in the national secu-  
8 rity interests of the United States;

9 (2) to determine how a nuclear testing treaty  
10 would relate to the security interests of other na-  
11 tions;

12 (3) to determine provisions essential to a nu-  
13 clear testing treaty such that the treaty would be in  
14 the national security interests of the United States;

15 (4) to determine whether a nuclear testing trea-  
16 ty would achieve the non-proliferation and arms con-  
17 trol objectives of the United States; and

18 (5) to prepare and transmit the report de-  
19 scribed in section 4(c).

20 (b) IMPLEMENTATION.—In carrying out subsection  
21 (a), the Commission shall specifically assess any issues the  
22 Commission considers appropriate, including the fol-  
23 lowing:

24 (1) The improvements required for both the  
25 United States and the international monitoring sys-

1       tems in order to enhance detection of nuclear tests  
2       to meet the requirements of any treaty that may be  
3       recommended by the Commission.

4               (2) The elements of a verification regime that  
5       would be required in a nuclear testing treaty in  
6       order to minimize any detrimental impact of such  
7       treaty to the national security interests of the  
8       United States.

9               (3) The current status of the science-based  
10       stockpile stewardship program of the Department of  
11       Energy, including—

12                   (A) the date by which the program is an-  
13       ticipated to be fully implemented and proven as  
14       a substitute approach for underground nuclear  
15       testing; and

16                   (B) the dates of important milestones in  
17       the development of the program.

18               (4) The capability of the stockpile stewardship  
19       program to assure the safety, reliability, and mili-  
20       tary viability of the United States nuclear weapons  
21       stockpile indefinitely, including the capability of the  
22       program—

23                   (A) to remanufacture, certify, and replace  
24       each component in the enduring stockpile;

1 (B) to add all available, modern nuclear  
2 safety and use control devices to weapons in the  
3 enduring stockpile; and

4 (C) to modify existing nuclear weapons or  
5 design new weapons to meet future military  
6 threats.

7 (5) The criteria that would be utilized by appro-  
8 priate officials of the United States (including the  
9 Secretary of Defense, the Secretary of Energy, the  
10 directors of the Department of Energy national lab-  
11 oratories, and the Commander-in-Chief of the  
12 United States Strategic Command) to determine  
13 when and if the United States should withdraw from  
14 a nuclear testing treaty under a supreme national  
15 interest clause of such treaty in order to resume an-  
16 other method of nuclear weapons tests, including un-  
17 derground tests.

18 (6) Whether a nuclear testing treaty will dis-  
19 advantage the United States with respect to the nu-  
20 clear weapons maintenance and modernization pro-  
21 grams carried out by other nations.

22 (7) Whether a nuclear testing treaty that re-  
23 quires a zero yield is in the national security inter-  
24 ests of the United States.

1           (8) Whether a nuclear testing treaty of perma-  
2           nent duration is in the national security interests of  
3           the United States, or whether a treaty with periodic  
4           and mandatory reviews of the continuation of such  
5           treaty in force is preferable.

6           (9) The capacity of a nuclear testing treaty to  
7           prevent, deter, or lessen the proliferation of crude,  
8           or first generation, nuclear weapons.

9           (10) In the event a nuclear testing treaty re-  
10          ceives the advice and consent to ratification of the  
11          Senate, the extent to which the actual or perceived  
12          decline in confidence in the United States nuclear  
13          deterrent would affect the national security of the  
14          United States and the security of our allies.

15          (11) Whether the elimination of the United  
16          States nuclear capability would be in the national se-  
17          curity interests of the United States, both currently  
18          and in the future.

19 **SEC. 4. REPORTS.**

20          (a) INITIAL REPORT.—Not later than two months  
21          after the first meeting of the Commission, the Co-Chair-  
22          persons of the Commission shall, on behalf of the Commis-  
23          sion, submit to the Senate a report setting forth a plan  
24          for the work of the Commission.

1 (b) INTERIM REPORTS.—Before the submission of  
2 the report required by subsection (c), the Commission may  
3 issue such interim reports as it finds necessary and desir-  
4 able.

5 (c) FINAL REPORT.—(1) Not later than March 1,  
6 2001, the Commission shall submit to the President and  
7 the Senate a report setting forth the activities, findings,  
8 and recommendations of the Commission.

9 (2) The report under paragraph (1) shall be in un-  
10 classified form, but may contain a classified annex.

11 **SEC. 5. POWERS.**

12 (a) HEARINGS; SUBPOENAS.—(1) The Commission  
13 or, at its direction, any panel or member of the Commis-  
14 sion, may, for the purpose of carrying out the provisions  
15 of this Act, hold hearings, sit and act at times and places,  
16 require, by subpoena or otherwise, the attendance of wit-  
17 nesses and the production of records, papers, documents  
18 and other materials, take testimony, receive evidence, and  
19 administer oaths to the extent that the Commission or any  
20 panel or member considers advisable.

21 (2)(A) Subpoenas issued pursuant to paragraph (1)  
22 shall bear the signature of the Co-Chairpersons of the  
23 Commission and shall be served by any person or class  
24 of persons designated by the Co-Chairpersons for that  
25 purpose.

1 (B) In the case of contumacy or failure to obey a  
2 subpoena issued under paragraph (1), the United States  
3 district court for the judicial district in which the subpoe-  
4 naed person resides, is served, or may be found may issue  
5 an order requiring such person to appear at any des-  
6 ignated place to testify or to produce documentary or  
7 other evidence. Any failure to obey the order of the court  
8 may be punished by the court as a contempt that court.

9 (b) INFORMATION FROM FEDERAL AGENCIES.—(1)  
10 The Commission may secure directly from any depart-  
11 ment, agency, or entity of the Federal Government any  
12 information that the Commission considers necessary to  
13 enable the Commission to carry out its responsibilities  
14 under this Act.

15 (2) Upon request of a Co-Chairperson of the Commis-  
16 sion, the head of any such department, agency, or entity  
17 shall furnish such information expeditiously to the Com-  
18 mission.

19 (c) POSTAL, PRINTING AND BINDING SERVICES.—  
20 The Commission may use the United States mails and ob-  
21 tain printing and binding services in the same manner and  
22 under the same conditions as other departments and agen-  
23 cies of the Federal Government.

24 (d) PANELS.—(1) The Commission may establish  
25 panels composed of less than the full membership of the

1 Commission for the purpose of carrying out the Commis-  
2 sion's duties.

3 (2) The actions of each such panel shall be subject  
4 to the review and control of the Commission.

5 (3) Any findings and determinations made by such  
6 a panel shall not be considered the findings and deter-  
7 minations of the Commission unless approved by the Com-  
8 mission.

9 (e) **AUTHORITY OF INDIVIDUALS TO ACT FOR COM-**  
10 **MISSION.**—Any member or agent of the Commission may,  
11 if authorized by the Commission, take any action which  
12 the Commission is authorized to take under this Act.

13 **SEC. 6. PERSONNEL MATTERS.**

14 (a) **COMPENSATION OF MEMBERS.**—(1) Each mem-  
15 ber of the Commission who is a private United States cit-  
16 izen shall be paid, if requested, at a rate equal to the daily  
17 equivalent of the annual rate of basic pay payable for level  
18 V of the Executive Schedule under section 5316 of title  
19 5, United States Code, for each day (including travel time)  
20 during which the member is engaged in the performance  
21 of the duties of the Commission.

22 (2) All members of the Commission who are officers  
23 or employees of the United States shall serve without com-  
24 pensation in addition to that received for their services as  
25 officers or employees of the United States.

1           (b) TRAVEL EXPENSES.—Each member of the Com-  
2 mission shall be allowed travel expenses, including per  
3 diem in lieu of subsistence, at rates authorized for employ-  
4 ees of agencies under subchapter I of chapter 57 of title  
5 5, United States Code, while away from their homes or  
6 regular places of business in the performance of services  
7 for the Commission.

8           (c) STAFF.—(1) The Co-Chairpersons of the Com-  
9 mission may, without regard to the provisions of title 5,  
10 United States Code, governing appointments in the com-  
11 petitive service, appoint a staff director and such addi-  
12 tional personnel as may be necessary to enable the Com-  
13 mission to perform its duties. The staff director of the  
14 Commission shall be appointed from private life, and such  
15 appointment shall be subject to the approval of the Com-  
16 mission as a whole.

17           (2) The Co-Chairpersons of the Commission may fix  
18 the pay of the staff director and other personnel without  
19 regard to the provisions of chapter 51 and subchapter III  
20 of chapter 53 of title 5, United States Code, relating to  
21 classification of positions and General Schedule pay rates,  
22 except that the rate of pay fixed under this paragraph for  
23 the staff director may not exceed the rate payable for level  
24 V of the Executive Schedule under section 5316 of such  
25 title and the rate of pay for other personnel may not ex-

1 exceed the maximum rate payable for grade GS-15 of the  
2 General Schedule.

3 (d) **DETAIL OF GOVERNMENT EMPLOYEES.**—Upon  
4 request of the Co-Chairpersons of the Commission, the  
5 head of any Federal department or agency may detail, on  
6 a nonreimbursable basis, any personnel of that depart-  
7 ment or agency to the Commission to assist it in carrying  
8 out its administrative and clerical functions.

9 (e) **PROCUREMENT OF TEMPORARY AND INTERMIT-**  
10 **TENT SERVICES.**—The Co-Chairpersons of the Commis-  
11 sion may procure temporary and intermittent services  
12 under section 3109(b) of title 5, United States Code, at  
13 rates for individuals which do not exceed the daily equiva-  
14 lent of the annual rate of basic pay payable for level V  
15 of the Executive Schedule under section 5316 of such title.

16 (f) **ADMINISTRATIVE AND SUPPORT SERVICES.**—The  
17 Secretary of Defense and the Secretary of State shall fur-  
18 nish the Commission, on a non-reimbursable basis, any ad-  
19 ministrative and support services requested by the Com-  
20 mission consistent with this Act.

21 **SEC. 7. PAYMENT OF COMMISSION EXPENSES.**

22 The compensation, travel expenses, per diem allow-  
23 ances of members and employees of the Commission, and  
24 other expenses of the Commission shall be paid equally  
25 out of funds available to the Secretary of Defense and the

1 Secretary of State for the payment of compensation, travel  
2 allowances, and per diem allowances, respectively, of em-  
3 ployees of the Department of Defense and the Department  
4 of State, as the case may be.

5 **SEC. 8. TERMINATION OF THE COMMISSION.**

6       The Commission shall terminate one month after the  
7 date of the submission of the report required by section  
8 4(c).

○