

106TH CONGRESS
2D SESSION

S. 2552

AN ACT

To authorize appropriations for fiscal year 2001 for defense activities of the Department of Energy, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Department of Energy
5 National Security Act for Fiscal Year 2001”.

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1 **SEC. 3. CONGRESSIONAL DEFENSE COMMITTEES DEFINED.**

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

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

6 (2) the Committee on Armed Services and the
7 Committee on Appropriations of the House of Rep-
8 resentatives.

9 **TITLE XXXI—DEPARTMENT OF**
10 **ENERGY NATIONAL SECURITY**
11 **PROGRAMS**

12 **Subtitle A—National Security**
13 **Programs Authorizations**

14 **SEC. 3101. NATIONAL NUCLEAR SECURITY ADMINISTRA-**
15 **TION.**

16 (a) IN GENERAL.—Funds are hereby authorized to
17 be appropriated to the Department of Energy for fiscal
18 year 2001 for national nuclear security administration in
19 carrying out programs necessary for national security in
20 the amount of \$6,289,835,000, to be allocated as follows:

21 (1) WEAPONS ACTIVITIES.—For weapons activi-
22 ties necessary for national nuclear security adminis-
23 tration, \$4,747,800,000, to be allocated as follows:

24 (A) STEWARDSHIP OPERATION AND MAIN-
25 TENANCE.—For stewardship operation and
26 maintenance in carrying out weapons activities

1 necessary for national nuclear security adminis-
2 tration, \$3,822,383,000, to be allocated as fol-
3 lows:

4 (i) For directed stockpile work,
5 \$842,603,000.

6 (ii) For campaigns, \$1,471,982,000.

7 (iii) For readiness in technical base
8 and facilities, \$1,507,798,000.

9 (B) SECURE TRANSPORTATION ASSETS.—

10 For secure transportation assets in carrying out
11 weapons activities necessary for national nu-
12 clear security administration, \$115,673,000, to
13 be allocated as follows:

14 (i) For operation and maintenance,
15 \$79,357,000.

16 (ii) For program direction (secure
17 transportation), \$36,316,000.

18 (C) PROGRAM DIRECTION.—For program
19 direction in carrying out weapons activities nec-
20 essary for national nuclear security administra-
21 tion, \$221,257,000.

22 (D) CONSTRUCTION.—For construction
23 (including maintenance, restoration, planning,
24 construction, acquisition, modification of facili-
25 ties, and the continuation of projects authorized

1 in prior years, and land acquisition related
2 thereto) in carrying out weapons activities nec-
3 essary for national nuclear security administra-
4 tion, \$588,173,000, to be allocated as follows:

5 Project 01-D-101, distributed infor-
6 mation systems laboratory, Sandia Na-
7 tional Laboratories, Livermore, California,
8 \$2,300,000.

9 Project 01-D-103, preliminary
10 project design and engineering, various lo-
11 cations, \$14,500,000.

12 Project 01-D-124, highly enriched
13 uranium (HEU) materials facility, Y-12
14 Plant, Oak Ridge, Tennessee,
15 \$17,800,000.

16 Project 01-D-126, weapons evalua-
17 tion test laboratory, Pantex Plant, Ama-
18 rillo, Texas, \$3,000,000.

19 Project 00-D-103, terascale simula-
20 tion facility, Lawrence Livermore National
21 Laboratory, Livermore, California,
22 \$5,000,000.

23 Project 00-D-105, strategic com-
24 puting complex, Los Alamos National Lab-

1 oratory, Los Alamos, New Mexico,
2 \$56,000,000.

3 Project 00-D-107, joint computa-
4 tional engineering laboratory, Sandia Na-
5 tional Laboratories, Albuquerque, New
6 Mexico, \$6,700,000.

7 Project 99-D-103, isotope sciences
8 facilities, Lawrence Livermore National
9 Laboratory, Livermore, California,
10 \$5,000,000.

11 Project 99-D-104, protection of real
12 property (roof reconstruction, Phase II)
13 Lawrence Livermore National Laboratory,
14 Livermore, California, \$2,800,000.

15 Project 99-D-106, model validation
16 and systems certification test center,
17 Sandia National Laboratories, Albu-
18 querque, New Mexico, \$5,200,000.

19 Project 99-D-108, renovate existing
20 roadways, Nevada Test Site, Nevada,
21 \$2,000,000.

22 Project 99-D-125, replace boilers and
23 controls, Kansas City Plant, Kansas City,
24 Missouri, \$13,000,000.

1 Project 99–D–127, stockpile manage-
2 ment restructuring initiative, Kansas City
3 Plant, Kansas City, Missouri,
4 \$23,765,000.

5 Project 99–D–128, stockpile manage-
6 ment restructuring initiative, Pantex Plant
7 consolidation, Amarillo, Texas, \$4,998,000.

8 Project 99–D–132, stockpile manage-
9 ment restructuring initiative, nuclear mate-
10 rials safeguards and security upgrades
11 project, Los Alamos National Laboratory,
12 Los Alamos, New Mexico, \$18,043,000.

13 Project 98–D–123, stockpile manage-
14 ment restructuring initiative, tritium facil-
15 ity modernization and consolidation, Sa-
16 vannah River Site, Aiken, South Carolina,
17 \$30,767,000.

18 Project 98–D–125, tritium extraction
19 facility, Savannah River Site, Aiken, South
20 Carolina, \$75,000,000.

21 Project 98–D–126, Accelerator Pro-
22 duction of Tritium (APT), various loca-
23 tions, \$34,000,000.

24 Project 97–D–102, dual-axis radio-
25 graphic hydrotest facility (DARHT), Los

1 Alamos National Laboratory, Los Alamos,
2 New Mexico, \$35,232,000.

3 Project 97–D–123, structural up-
4 grades, Kansas City Plant, Kansas City,
5 Missouri, \$2,918,000.

6 Project 96–D–111, national ignition
7 facility (NIF), Lawrence Livermore Na-
8 tional Laboratory, Livermore, California,
9 \$214,100,000.

10 Project 95–D–102, chemistry and
11 metallurgy research upgrades project, Los
12 Alamos National Laboratory, Los Alamos,
13 New Mexico, \$13,337,000.

14 Project 88–D–123, security enhance-
15 ment, Pantex Plant, Amarillo, Texas,
16 \$2,713,000.

17 (2) DEFENSE NUCLEAR NONPROLIFERATION.—
18 For defense nuclear nonproliferation necessary for
19 national nuclear security administration,
20 \$847,035,000, to be allocated as follows:

21 (A) NONPROLIFERATION AND
22 VERIFICATION RESEARCH AND DEVELOP-
23 MENT.—For nonproliferation and verification
24 research and development technology in car-
25 rying out defense nuclear nonproliferation nec-

1 essary for national nuclear security administra-
2 tion, \$262,990,000, to be allocated as follows:

3 (i) For operation and maintenance,
4 \$255,990,000.

5 (ii) For the following plant project
6 (including maintenance, restoration, plan-
7 ning, construction, acquisition, modifica-
8 tion of facilities, and the continuation of
9 projects authorized in prior years, and land
10 acquisition related thereto), \$7,000,000, to
11 be allocated as follows:

12 Project 00–D–192, nonprolifera-
13 tion and international security center
14 (NISC), Los Alamos National Labora-
15 tory, Los Alamos, New Mexico,
16 \$7,000,000.

17 (B) ARMS CONTROL.—For arms control in
18 carrying out defense nuclear nonproliferation
19 necessary for national nuclear security adminis-
20 tration, \$308,060,000, to be allocated as fol-
21 lows:

22 (i) For arms control operations,
23 \$272,870,000.

1 (ii) For highly enriched uranium
2 (HEU) transparency implementation,
3 \$15,190,000.

4 (iii) For international nuclear safety,
5 \$20,000,000.

6 (C) FISSILE MATERIALS DISPOSITION.—
7 For fissile materials disposition in carrying out
8 defense nuclear nonproliferation necessary for
9 national nuclear security administration,
10 \$224,517,000, to be allocated as follows:

11 (i) For operation and maintenance,
12 \$175,517,000.

13 (ii) For plant projects (including
14 maintenance, restoration, planning, con-
15 struction, acquisition, modification of fa-
16 cilities, and the continuation of projects
17 authorized in prior years, and land acqui-
18 sition related thereto), \$49,000,000, to be
19 allocated as follows:

20 Project 00–D–142, immobiliza-
21 tion and associated processing facility,
22 titles I and II design, Savannah River
23 Site, Aiken, South Carolina,
24 \$3,000,000.

1 Project 99–D–141, pit dis-
 2 assembly and conversion facility, titles
 3 I and II design, Savannah River Site,
 4 Aiken, South Carolina, \$20,000,000.

5 Project 99–D–143, mixed oxide
 6 fuel fabrication facility, titles I and II
 7 design, Savannah River Site, Aiken,
 8 South Carolina, \$26,000,000.

9 (D) PROGRAM DIRECTION.—For program
 10 direction in carrying out defense nuclear non-
 11 proliferation necessary for national nuclear se-
 12 curity administration, \$51,468,000.

13 (3) NAVAL REACTORS.—For naval reactors ac-
 14 tivities necessary for national nuclear security ad-
 15 ministration, \$695,000,000, to be allocated as fol-
 16 lows:

17 (A) NAVAL REACTORS DEVELOPMENT.—
 18 For naval reactors development in carrying out
 19 naval reactors activities necessary for national
 20 nuclear security administration, \$673,600,000,
 21 to be allocated as follows:

22 (i) For operation and maintenance,
 23 \$644,900,000.

24 (ii) For plant projects (including
 25 maintenance, restoration, planning, con-

1 construction, acquisition, modification of fa-
2 cilities, and the continuation of projects
3 authorized in prior years, and land acquisi-
4 tion related thereto), \$28,700,000, to be
5 allocated as follows:

6 Project GPN-101, general plant
7 projects, various locations,
8 \$11,400,000.

9 Project 01-D-200, major office
10 replacement building, Schenectady,
11 New York, \$1,300,000.

12 Project 90-N-102, expended core
13 facility dry cell project, Naval Reac-
14 tors Facility, Idaho Falls, Idaho,
15 \$16,000,000.

16 (B) PROGRAM DIRECTION.—For program
17 direction in carrying out naval reactors activi-
18 ties necessary for national nuclear security ad-
19 ministration, \$21,400,000.

20 **SEC. 3102. DEFENSE ENVIRONMENTAL RESTORATION AND**
21 **WASTE MANAGEMENT.**

22 (a) IN GENERAL.—Subject to subsection (b), funds
23 are hereby authorized to be appropriated to the Depart-
24 ment of Energy for fiscal year 2001 for environmental res-
25 toration and waste management activities in carrying out

1 programs necessary for national security in the amount
2 of \$5,651,824,000, to be allocated as follows:

3 (1) CLOSURE PROJECTS.—For closure projects
4 carried out in accordance with section 3143 of the
5 National Defense Authorization Act for Fiscal Year
6 1997 (Public Law 104–201; 110 Stat. 2836; 42
7 U.S.C. 7277n), \$1,082,297,000

8 (2) SITE/PROJECT COMPLETION.—For site com-
9 pletion and project completion in carrying out envi-
10 ronmental management activities necessary for na-
11 tional security programs, \$930,951,000, to be allo-
12 cated as follows:

13 (A) For operation and maintenance,
14 \$861,475,000.

15 (B) For plant projects (including mainte-
16 nance, restoration, planning, construction, ac-
17 quisition, modification of facilities, and the con-
18 tinuation of projects authorized in prior years,
19 and land acquisition related thereto),
20 \$69,476,000, to be allocated as follows:

21 Project 01–D–402, Intec cathodic
22 protection system expansion, Idaho Na-
23 tional Engineering and Environmental
24 Laboratory, Idaho Falls, Idaho, \$500,000.

1 Project 01-D-407, highly enriched
2 uranium (HEU) blend down, Savannah
3 River Site, Aiken, South Carolina,
4 \$27,932,000.

5 Project 99-D-402, tank farm support
6 services, F&H areas, Savannah River Site,
7 Aiken, South Carolina, \$7,714,000.

8 Project 99-D-404, health physics in-
9 strumentation laboratory, Idaho National
10 Engineering and Environmental Labora-
11 tory, Idaho Falls, Idaho, \$4,300,000.

12 Project 98-D-453, plutonium sta-
13 bilization and handling system for pluto-
14 nium finishing plant, Richland, Wash-
15 ington, \$1,690,000.

16 Project 97-D-470, regulatory moni-
17 toring and bioassay laboratory, Savannah
18 River Site, Aiken, South Carolina,
19 \$3,949,000.

20 Project 96-D-471, chlorofluorocarbon
21 heating, ventilation, and air conditioning
22 and chiller retrofit, Savannah River Site,
23 Aiken, South Carolina, \$12,512,000.

1 Project 92–D–140, F&H canyon ex-
2 haust upgrades, Savannah River Site,
3 Aiken, South Carolina, \$8,879,000.

4 Project 86–D–103, decontamination
5 and waste treatment facility, Lawrence
6 Livermore National Laboratory, Liver-
7 more, California, \$2,000,000.

8 (3) POST 2006 COMPLETION.—For post-2006
9 completion in carrying out environmental restoration
10 and waste management activities necessary for na-
11 tional security programs, \$3,178,457,000, to be allo-
12 cated as follows:

13 (A) For operation and maintenance,
14 \$2,683,725,000.

15 (B) For plant projects (including mainte-
16 nance, restoration, planning, construction, ac-
17 quisition, modification of facilities, and the con-
18 tinuation of projects authorized in prior years,
19 and land acquisition related thereto),
20 \$99,732,000, to be allocated as follows:

21 Project 01–D–403, immobilized high-
22 level waste interim storage facility, Rich-
23 land, Washington, \$1,300,000.

1 Project 99–D–403, privatization
 2 phase I infrastructure support, Richland,
 3 Washington, \$7,812,000.

4 Project 97–D–402, tank farm restora-
 5 tion and safe operations, Richland, Wash-
 6 ington, \$46,023,000.

7 Project 94–D–407, initial tank re-
 8 trieval systems, Richland, Washington,
 9 \$17,385,000.

10 Project 93–D–187, high-level waste
 11 removal from filled waste tanks, Savannah
 12 River Site, Aiken, South Carolina,
 13 \$27,212,000.

14 (4) SCIENCE AND TECHNOLOGY DEVELOP-
 15 MENT.—For science and technology development in
 16 carrying out environmental restoration and waste
 17 management activities necessary for national secu-
 18 rity programs, \$246,548,000.

19 (5) PROGRAM DIRECTION.—For program direc-
 20 tion in carrying out environmental restoration and
 21 waste management activities necessary for national
 22 security programs, \$354,888,000.

23 (b) ADJUSTMENT.—The total amount authorized to
 24 be appropriated by subsection (a) is the sum of the

1 amounts authorized to be appropriated by paragraphs (1)
 2 through (5) of that subsection, reduced by \$216,317,000.

3 **SEC. 3103. OTHER DEFENSE ACTIVITIES.**

4 (a) IN GENERAL.—Subject to subsection (b), funds
 5 are hereby authorized to be appropriated to the Depart-
 6 ment of Energy for fiscal year 2001 for other defense ac-
 7 tivities in carrying out programs necessary for national se-
 8 curity in the amount of \$536,322,000, to be allocated as
 9 follows:

10 (1) INTELLIGENCE.—For intelligence in car-
 11 rying out other defense activities necessary for na-
 12 tional security programs, \$38,059,000, to be allo-
 13 cated as follows:

14 (A) For operation and maintenance,
 15 \$36,059,000.

16 (B) For the following plant project (includ-
 17 ing maintenance, restoration, planning, con-
 18 struction, acquisition, modification of facilities,
 19 and the continuation of projects authorized in
 20 prior years, and land acquisition related there-
 21 to), \$2,000,000, to be allocated as follows:

22 Project 01–D–800, sensitive compart-
 23 mented information facility, Lawrence
 24 Livermore National Laboratory, Liver-
 25 more, California, \$2,000,000.

1 (2) COUNTERINTELLIGENCE.—For counter-
2 intelligence in carrying out other defense activities
3 necessary for national security programs,
4 \$75,200,000.

5 (3) SECURITY AND EMERGENCY OPERATIONS.—
6 For security and emergency operations in carrying
7 out other defense activities necessary for national se-
8 curity programs, \$281,576,000, to be allocated as
9 follows:

10 (A) For nuclear safeguards and security,
11 \$124,409,000.

12 (B) For security investigations,
13 \$33,000,000.

14 (C) For emergency management,
15 \$37,300,000.

16 (D) For program direction, \$86,867,000.

17 (4) INDEPENDENT OVERSIGHT AND PERFORM-
18 ANCE ASSURANCE.—For independent oversight and
19 performance assurance in carrying out other defense
20 activities necessary for national security programs,
21 \$14,937,000, to be allocated for program direction.

22 (5) ENVIRONMENT, SAFETY, AND HEALTH, DE-
23 FENSE.—For environment, safety, and health, de-
24 fense, in carrying out other defense activities nec-

1 essary for national security programs, \$99,050,000,
2 to be allocated as follows:

3 (A) For the Office of Environment, Safety,
4 and Health (Defense), \$76,446,000.

5 (B) For program direction, \$22,604,000.

6 (6) WORKER AND COMMUNITY TRANSITION.—
7 For worker and community transition in carrying
8 out other defense activities necessary for national se-
9 curity programs, \$24,500,000, to be allocated as fol-
10 lows:

11 (A) For operation and maintenance,
12 \$21,500,000.

13 (B) For program direction, \$3,000,000.

14 (7) OFFICE OF HEARINGS AND APPEALS.—For
15 the Office of Hearings and Appeals in carrying out
16 other defense activities necessary for national secu-
17 rity programs, \$3,000,000.

18 (b) ADJUSTMENTS.—(1) The amount authorized to
19 be appropriated pursuant to subsection (a)(3)(B) is re-
20 duced by \$20,000,000 to reflect an offset provided by user
21 organizations for security investigations.

22 (2) The total amount authorized to be appropriated
23 by subsection (a) is the sum of the amounts authorized
24 to be appropriated by paragraphs (1) through (7) of that
25 subsection, reduced by \$50,000,000.

1 **SEC. 3104. DEFENSE ENVIRONMENTAL MANAGEMENT PRI-**
 2 **VATIZATION.**

3 (a) IN GENERAL.—Funds are hereby authorized to
 4 be appropriated to the Department of Energy for fiscal
 5 year 2001 for privatization initiatives in carrying out envi-
 6 ronmental restoration and waste management activities
 7 necessary for national security programs in the amount
 8 of \$390,092,000, to be allocated as follows:

9 Project 98–PVT–2, spent nuclear fuel dry stor-
 10 age, Idaho Falls, Idaho, \$25,092,000.

11 Project 97–PVT–1, tank waste remediation sys-
 12 tem project, phase I, Richland, Washington,
 13 \$300,000,000.

14 Project 97–PVT–2, advanced mixed waste
 15 treatment project Idaho Falls, Idaho, \$65,000,000.

16 (b) EXPLANATION OF ADJUSTMENT.—The amount
 17 authorized to be appropriated pursuant to subsection (a)
 18 is the sum of the amounts authorized to be appropriated
 19 for the projects in that subsection reduced by \$25,092,000
 20 for use of prior year balances of funds for defense environ-
 21 mental management privatization.

22 **SEC. 3105. ENERGY EMPLOYEES COMPENSATION INITIA-**
 23 **TIVE.**

24 Funds are hereby authorized to be appropriated to
 25 the Department of Energy for fiscal year 2001 for an en-

1 ergy employees compensation initiative in the amount of
2 \$17,000,000.

3 **SEC. 3106. DEFENSE NUCLEAR WASTE DISPOSAL.**

4 Funds are hereby authorized to be appropriated to
5 the Department of Energy for fiscal year 2001 for pay-
6 ment to the Nuclear Waste Fund established in section
7 302(c) of the Nuclear Waste Policy Act of 1982 (42
8 U.S.C. 10222(c)) in the amount of \$112,000,000.

9 **Subtitle B—Recurring General**
10 **Provisions**

11 **SEC. 3121. REPROGRAMMING.**

12 (a) IN GENERAL.—Until the Secretary of Energy
13 submits to the congressional defense committees the re-
14 port referred to in subsection (b) and a period of 30 days
15 has elapsed after the date on which such committees re-
16 ceive the report, the Secretary may not use amounts ap-
17 propriated pursuant to this title for any program—

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

19 (A) 110 percent of the amount authorized
20 for that program by this title; or

21 (B) \$ 1,000,000 more than the amount au-
22 thorized for that program by this title; or

23 (2) which has not been presented to, or re-
24 quested of, Congress.

1 (b) REPORT.—(1) The report referred to in sub-
2 section (a) is a report containing a full and complete state-
3 ment of the action proposed to be taken and the facts and
4 circumstances relied upon in support of the proposed ac-
5 tion.

6 (2) In the computation of the 30-day period under
7 subsection (a), there shall be excluded any day on which
8 either House of Congress is not in session because of an
9 adjournment of more than 3 days to a day certain.

10 (c) LIMITATIONS.—(1) In no event may the total
11 amount of funds obligated pursuant to this title exceed
12 the total amount authorized to be appropriated by this
13 title.

14 (2) Funds appropriated pursuant to this title may not
15 be used for an item for which Congress has specifically
16 denied funds.

17 **SEC. 3122. LIMITS ON GENERAL PLANT PROJECTS.**

18 (a) IN GENERAL.—The Secretary of Energy may
19 carry out any construction project under the general plant
20 projects authorized by this title if the total estimated cost
21 of the construction project does not exceed \$5,000,000.

22 (b) REPORT TO CONGRESS.—If, at any time during
23 the construction of any general plant project authorized
24 by this title, the estimated cost of the project is revised
25 because of unforeseen cost variations and the revised cost

1 of the project exceeds \$5,000,000, the Secretary shall im-
2 mediately furnish a report to the congressional defense
3 committees explaining the reasons for the cost variation.

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

5 (a) IN GENERAL.—(1) Except as provided in para-
6 graph (2), construction on a construction project may not
7 be started or additional obligations incurred in connection
8 with the project above the total estimated cost, whenever
9 the current estimated cost of the construction project, au-
10 thorized by 3101, 3102, or 3103, or which is in support
11 of national security programs of the Department of En-
12 ergy and was authorized by any previous Act, exceeds by
13 more than 25 percent the higher of—

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

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

18 (2) An action described in paragraph (1) may be
19 taken if—

20 (A) the Secretary of Energy has submitted to
21 the congressional defense committees a report on the
22 actions and the circumstances making such action
23 necessary; and

1 (B) a period of 30 days has elapsed after the
2 date on which the report is received by the commit-
3 tees.

4 (3) In the computation of the 30-day period under
5 paragraph (2), there is excluded any day on which either
6 House of Congress is not in session because of an adjourn-
7 ment of more than 3 days to a day certain.

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

11 **SEC. 3124. FUND TRANSFER AUTHORITY.**

12 (a) TRANSFER TO OTHER FEDERAL AGENCIES.—
13 The Secretary of Energy may transfer funds authorized
14 to be appropriated to the Department of Energy pursuant
15 to this title to other Federal agencies for the performance
16 of work for which the funds were authorized. Funds so
17 transferred may be merged with and be available for the
18 same purposes and for the same time period as the author-
19 izations of the Federal agency to which the amounts are
20 transferred.

21 (b) TRANSFER WITHIN DEPARTMENT OF ENERGY.—

22 (1) Subject to paragraph (2), the Secretary of Energy may
23 transfer funds authorized to be appropriated to the De-
24 partment of Energy pursuant to this title between any
25 such authorizations. Amounts of authorizations so trans-

1 ferred may be merged with and be available for the same
2 purposes and for the same period as the authorization to
3 which the amounts are transferred.

4 (2) Not more than 5 percent of any such authoriza-
5 tion may be transferred between authorizations under
6 paragraph (1). No such authorization may be increased
7 or decreased by more than 5 percent by a transfer under
8 such paragraph.

9 (c) LIMITATIONS.—The authority provided by this
10 subsection to transfer authorizations—

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

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

18 (d) NOTICE TO CONGRESS.—The Secretary of En-
19 ergy shall promptly notify the Committees on Armed Serv-
20 ices of the Senate and House of Representatives of any
21 transfer of funds to or from authorizations under this
22 title.

1 **SEC. 3125. AUTHORITY FOR CONCEPTUAL AND CONSTRUC-**
2 **TION DESIGN.**

3 (a) REQUIREMENT OF CONCEPTUAL DESIGN.—(1)
4 Subject to paragraph (2) and except as provided in para-
5 graph (3), before submitting to Congress a request for
6 funds for a construction project that is in support of a
7 national security program of the Department of Energy,
8 the Secretary of Energy shall complete a conceptual de-
9 sign for that project.

10 (2) If the estimated cost of completing a conceptual
11 design for a construction project exceeds \$3,000,000, the
12 Secretary shall submit to Congress a request for funds for
13 the conceptual design before submitting a request for
14 funds for the construction project.

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

17 (A) for a construction project the total esti-
18 mated cost of which is less than \$5,000,000; or

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

21 (b) AUTHORITY FOR CONSTRUCTION DESIGN.—(1)
22 Within the amounts authorized by this title, the Secretary
23 of Energy may carry out construction design (including
24 architectural and engineering services) in connection with
25 any proposed construction project if the total estimated
26 cost for such design does not exceed \$600,000.

1 (2) If the total estimated cost for construction design
2 in connection with any construction project exceeds
3 \$600,000, funds for that design must be specifically au-
4 thorized by law.

5 **SEC. 3126. AUTHORITY FOR EMERGENCY PLANNING, DE-**
6 **SIGN, AND CONSTRUCTION ACTIVITIES.**

7 (a) **AUTHORITY.**—The Secretary of Energy may use
8 any funds available to the Department of Energy pursuant
9 to an authorization in this title, including funds authorized
10 to be appropriated for advance planning and construction
11 design under sections 3101, 3102, and 3103, to perform
12 planning, design, and construction activities for any De-
13 partment of Energy national security program construc-
14 tion project that, as determined by the Secretary, must
15 proceed expeditiously in order to protect public health and
16 safety, to meet the needs of national defense, or to protect
17 property.

18 (b) **LIMITATION.**—The Secretary may not exercise
19 the authority under subsection (a) in the case of any con-
20 struction project until the Secretary has submitted to the
21 congressional defense committees a report on the activities
22 that the Secretary intends to carry out under this section
23 and the circumstances making those activities necessary.

24 (c) **SPECIFIC AUTHORITY.**—The requirement of sec-
25 tion 3125(b)(2) does not apply to emergency planning, de-

1 sign, and construction activities conducted under this sec-
 2 tion.

3 **SEC. 3127. FUNDS AVAILABLE FOR ALL NATIONAL SECU-**
 4 **RITY PROGRAMS OF THE DEPARTMENT OF**
 5 **ENERGY.**

6 Subject to the provisions of appropriation Acts and
 7 section 3121, amounts appropriated pursuant to this title
 8 for management and support activities and for general
 9 plant projects are available for use, when necessary, in
 10 connection with all national security programs of the De-
 11 partment of Energy.

12 **SEC. 3128. AVAILABILITY OF FUNDS.**

13 (a) IN GENERAL.—Except as provided in subsection
 14 (b), when so specified in an appropriations Act, amounts
 15 appropriated for operation and maintenance or for plant
 16 projects may remain available until expended.

17 (b) EXCEPTION FOR PROGRAM DIRECTION FUNDS.—
 18 Amounts appropriated for program direction pursuant to
 19 an authorization of appropriations in subtitle A shall re-
 20 main available to be expended only until the end of fiscal
 21 year 2003.

22 **SEC. 3129. TRANSFER OF DEFENSE ENVIRONMENTAL MAN-**
 23 **AGEMENT FUNDS.**

24 (a) TRANSFER AUTHORITY FOR DEFENSE ENVIRON-
 25 MENTAL MANAGEMENT FUNDS.—The Secretary of En-

1 ergy shall provide the manager of each field office of the
2 Department of Energy with the authority to transfer de-
3 fense environmental management funds from a program
4 or project under the jurisdiction of the office to another
5 such program or project.

6 (b) LIMITATIONS.—(1) Only one transfer may be
7 made to or from any program or project under subsection
8 (a) in a fiscal year.

9 (2) The amount transferred to or from a program
10 or project under subsection (a) may not exceed \$5,000,000
11 in a fiscal year.

12 (3) A transfer may not be carried out by a manager
13 of a field office under subsection (a) unless the manager
14 determines that the transfer is necessary to address a risk
15 to health, safety, or the environment or to assure the most
16 efficient use of defense environmental management funds
17 at the field office.

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

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

1 (d) NOTIFICATION.—The Secretary, acting through
2 the Assistant Secretary of Energy for Environmental
3 Management, shall notify Congress of any transfer of
4 funds pursuant to subsection (a) not later than 30 days
5 after such transfer occurs.

6 (e) DEFINITIONS.—In this section:

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

10 (A) A program referred to or a project list-
11 ed in paragraphs (2) through (5) of section
12 3102(a).

13 (B) A program or project not described in
14 subparagraph (A) that is for environmental res-
15 toration or waste management activities nec-
16 essary for national security programs of the De-
17 partment, that is being carried out by the of-
18 fice, and for which defense environmental man-
19 agement funds have been authorized and appro-
20 priated before the date of the enactment of this
21 Act.

22 (2) The term “defense environmental manage-
23 ment funds” means funds appropriated to the De-
24 partment of Energy pursuant to an authorization for
25 carrying out environmental restoration and waste

1 management activities necessary for national secu-
 2 rity programs.

3 (f) DURATION OF AUTHORITY.—The managers of the
 4 field offices of the Department may exercise the authority
 5 provided under subsection (a) during the period beginning
 6 on October 1, 2000, and ending on September 30, 2001.

7 **Subtitle C—National Nuclear** 8 **Security Administration**

9 **SEC. 3131. TERM OF OFFICE OF PERSON FIRST APPOINTED** 10 **AS UNDER SECRETARY FOR NUCLEAR SECU-** 11 **RITY OF THE DEPARTMENT OF ENERGY.**

12 (a) LENGTH OF TERM.—The term of office as Under
 13 Secretary for Nuclear Security of the Department of En-
 14 ergy of the person first appointed to that position shall
 15 be three years.

16 (b) EXCLUSIVE REASONS FOR REMOVAL.—The ex-
 17 clusive reasons for removal from office as Under Secretary
 18 for Nuclear Security of the person described in subsection
 19 (a) shall be inefficiency, neglect of duty, or malfeasance
 20 in office.

21 (c) POSITION DESCRIBED.—The position of Under
 22 Secretary for Nuclear Security of the Department of En-
 23 ergy referred to in this section is the position established
 24 by subsection (c) of section 202 of the Department of En-
 25 ergy Organization Act (42 U.S.C. 7132), as added by sec-

tion 3202 of the National Nuclear Security Administration Act (title XXXII of Public Law 106–65; 113 Stat. 954)).

SEC. 3132. MEMBERSHIP OF UNDER SECRETARY FOR NUCLEAR SECURITY ON THE JOINT NUCLEAR WEAPONS COUNCIL.

(a) MEMBERSHIP.—Section 179 of title 10, United States Code, is amended—

(1) in subsection (a), by striking paragraph (3) and inserting the following new paragraph (3):

“(3) The Under Secretary for Nuclear Security of the Department of Energy.”; and

(2) in subsection (b)(2), by striking “the representative designated under subsection (a)(3)” and inserting “the Under Secretary for Nuclear Security of the Department of Energy”.

(b) CONFORMING AMENDMENT.—Section 3212 of the National Nuclear Security Administration Act (title XXXII of the Public Law 106–65; 50 U.S.C. 2402) is amended by adding at the end the following new subsection:

“(e) MEMBERSHIP ON JOINT NUCLEAR WEAPONS COUNCIL.—The Administrator serves as a member of the Joint Nuclear Weapons Council under section 179 of title 10, United States Code.”.

1 **SEC. 3133. SCOPE OF AUTHORITY OF SECRETARY OF EN-**
 2 **ERGY TO MODIFY ORGANIZATION OF NA-**
 3 **TIONAL NUCLEAR SECURITY ADMINISTRA-**
 4 **TION.**

5 (a) SCOPE OF AUTHORITY.—Subtitle A of the Na-
 6 tional Nuclear Security Administration Act (title XXXII
 7 of Public Law 106–65; 113 Stat. 957; 50 U.S.C. 2401
 8 et seq.) is amended by adding at the end the following
 9 new section:

10 **“SEC. 3219. SCOPE OF AUTHORITY OF SECRETARY OF EN-**
 11 **ERGY TO MODIFY ORGANIZATION OF ADMIN-**
 12 **ISTRATION.**

13 “Notwithstanding the authority granted by section
 14 643 of the Department of Energy Organization Act (42
 15 U.S.C. 7253) or any other provision of law, the Secretary
 16 of Energy may not establish, abolish, alter, consolidate,
 17 or discontinue any organizational unit or component, or
 18 transfer any function, of the Administration, except as au-
 19 thorized by subsection (b) or (c) of section 3291.”.

20 (b) CONFORMING AMENDMENTS.—Section 643 of the
 21 Department of Energy Organization Act (42 U.S.C. 7253)
 22 is amended—

- 23 (1) by striking “The Secretary” and inserting
 24 “(a) Subject to subsection (b), the Secretary”; and
 25 (2) by adding at the end the following new sub-
 26 section:

1 “(b) The authority of the Secretary to establish, abol-
 2 ish, alter, consolidate, or discontinue any organizational
 3 unit or component of the National Nuclear Security Ad-
 4 ministration is governed by the provisions of section 3219
 5 of the National Nuclear Security Administration Act (title
 6 XXXII of Public Law 106–65).”.

7 **SEC. 3134. PROHIBITION ON PAY OF PERSONNEL ENGAGED**
 8 **IN CONCURRENT SERVICE OR DUTIES INSIDE**
 9 **AND OUTSIDE NATIONAL NUCLEAR SECURITY**
 10 **ADMINISTRATION.**

11 Subtitle C of the National Nuclear Security Adminis-
 12 tration Act (title XXXII of Public Law 106–65; 50 U.S.C.
 13 2441 et seq.) is amended by adding at the end the fol-
 14 lowing new section:

15 **“SEC. 3245. PROHIBITION ON PAY OF PERSONNEL EN-**
 16 **GAGED IN CONCURRENT SERVICE OR DUTIES**
 17 **INSIDE AND OUTSIDE ADMINISTRATION.**

18 “Except as otherwise expressly provided by statute,
 19 no funds authorized to be appropriated or otherwise made
 20 available for the Department of Energy for any fiscal year
 21 after fiscal year 2000 may be obligated or utilized to pay
 22 the basic pay of an officer or employee of the Department
 23 of Energy who—

1 “(1) serves concurrently in a position in the Ad-
 2 ministration and a position outside the Administra-
 3 tion; or

4 “(2) performs concurrently the duties of a posi-
 5 tion in the Administration and the duties of a posi-
 6 tion outside the Administration.”.

7 **SEC. 3135. ORGANIZATION PLAN FOR FIELD OFFICES OF**
 8 **THE NATIONAL NUCLEAR SECURITY ADMIN-**
 9 **ISTRATION.**

10 (a) **PLAN REQUIRED.**—Not later than March 1,
 11 2001, the Administrator of the National Nuclear Security
 12 Administration shall submit to the Committees on Armed
 13 Services of the Senate and House of Representatives a
 14 plan for assigning roles and responsibilities to and among
 15 the headquarters and field organizational units of the Na-
 16 tional Nuclear Security Administration.

17 (b) **PLAN ELEMENTS.**—The plan shall include the
 18 following:

19 (1) A general description of the organizational
 20 structure of the administrative functions of the Na-
 21 tional Nuclear Security Administration under the
 22 plan, including the authorities and responsibilities to
 23 be vested in the units of the headquarters, oper-
 24 ations offices, and area offices of the Administra-
 25 tion.

1 (2) A description of any downsizing, elimi-
2 nation, or consolidation of units of the headquarters,
3 operations offices, and area offices of the Adminis-
4 tration that may be necessary to enhance the effi-
5 ciency of the Administration.

6 (3) A description of the modifications of staff-
7 ing levels of the headquarters, operations offices,
8 and area offices of the Administration, including any
9 reductions in force, employment of additional per-
10 sonnel, or realignments of personnel, that are nec-
11 essary to implement the plan.

12 (4) A schedule for the implementation of the
13 plan.

14 (c) INCLUDED FACILITIES.—The plan shall address
15 any administrative units in the National Nuclear Security
16 Administration, including units in and under the fol-
17 lowing:

18 (1) The Department of Energy Headquarters,
19 Washington, District of Columbia, metropolitan
20 area.

21 (2) The Albuquerque Operations Office, Albu-
22 querque, New Mexico.

23 (3) The Nevada Operations Office, Las Vegas,
24 Nevada.

1 (4) The Oak Ridge Operations Office, Oak
2 Ridge, Tennessee.

3 (5) The Oakland Operations Office, Oakland,
4 California.

5 (6) The Savannah River Operations Office,
6 Aiken, South Carolina.

7 (7) The Los Alamos Area Office, Los Alamos,
8 New Mexico.

9 (8) The Kirtland Area Office, Albuquerque,
10 New Mexico.

11 (9) The Amarillo Area Office, Amarillo, Texas.

12 (10) The Kansas City Area Office, Kansas City,
13 Missouri.

14 **SEC. 3136. FUTURE-YEARS NUCLEAR SECURITY PROGRAM.**

15 (a) PROGRAM REQUIRED.—(1) The Under Secretary
16 for Nuclear Security of the Department of Energy shall
17 submit to the congressional defense committees a future-
18 years nuclear security program (including associated an-
19 nexes) for fiscal year 2001 and the five succeeding fiscal
20 years.

21 (2) The program shall reflect the estimated expendi-
22 tures and proposed appropriations included in the budget
23 for fiscal year 2001 that is submitted to Congress in 2000
24 under section 1105(a) of title 31, United States Code.

1 (b) PROGRAM DETAIL.—The level of detail of the
2 program submitted under subsection (a) shall be equiva-
3 lent to the level of detail in the Project Baseline Summary
4 system of the Department of Energy, if practicable, but
5 in no event below the following:

6 (1) In the case of directed stockpile work, detail
7 as follows:

8 (A) Stockpile research and development.

9 (B) Stockpile maintenance.

10 (C) Stockpile evaluation.

11 (D) Dismantlement and disposal.

12 (E) Production support.

13 (F) Field engineering, training, and manu-
14 als.

15 (2) In the case of campaigns, detail as follows:

16 (A) Primary certification.

17 (B) Dynamic materials properties.

18 (C) Advanced radiography.

19 (D) Secondary certification and nuclear
20 system margins.

21 (E) Enhanced surety.

22 (F) Weapons system engineering certifi-
23 cation.

24 (G) Certification in hostile environments.

25 (H) Enhanced surveillance.

1 (I) Advanced design and production tech-
2 nologies.

3 (J) Inertial confinement fusion (ICF) igni-
4 tion and high yield.

5 (K) Defense computing and modeling.

6 (L) Pit manufacturing readiness.

7 (M) Secondary readiness.

8 (N) High explosive readiness.

9 (O) Nonnuclear readiness.

10 (P) Materials readiness.

11 (Q) Tritium readiness.

12 (3) In the case of readiness in technical base
13 and facilities, detail as follows:

14 (A) Operation of facilities.

15 (B) Program readiness.

16 (C) Special projects.

17 (D) Materials recycle and recovery.

18 (E) Containers.

19 (F) Storage.

20 (4) In the case of secure transportation assets,
21 detail as follows:

22 (A) Operation and maintenance.

23 (B) Program direction relating to trans-
24 portation.

25 (5) Program direction.

1 (6) Construction (listed by project number).

2 (7) In the case of safeguards and security, de-
3 tail as follows:

4 (A) Operation and maintenance.

5 (B) Construction.

6 (c) DEADLINE FOR SUBMITTAL.—The future-years
7 nuclear security program required by subsection (a) shall
8 be submitted not later than November 1, 2000.

9 (d) LIMITATION ON USE OF FUNDS PENDING SUB-
10 MITTAL.—Not more than 65 percent of the funds author-
11 ized to be appropriated or otherwise made available for
12 the Department of Energy for fiscal year 2001 by section
13 3101(a)(1)(C) may be obligated or expended until 45 days
14 after the date on which the Under Secretary of Energy
15 for Nuclear Security submits to the congressional defense
16 committees the program required by subsection (a).

17 **SEC. 3137. COOPERATIVE RESEARCH AND DEVELOPMENT**
18 **OF THE NATIONAL NUCLEAR SECURITY AD-**
19 **MINISTRATION.**

20 (a) OBJECTIVE FOR OBLIGATION OF FUNDS.—It
21 shall be an objective of the Administrator of the National
22 Nuclear Security Administration to obligate funds for co-
23 operative research and development agreements (as that
24 term is defined in section 12(d)(1) of the Stevenson-
25 Wydler Technology Innovation Act of 1980 (15 U.S.C.

1 3710a(d)(1)), or similar cooperative, cost-shared research
2 partnerships with non-Federal organizations, in a fiscal
3 year covered by subsection (b) in an amount at least equal
4 to the percentage of the total amount appropriated for the
5 Administration for such fiscal year that is specified for
6 such fiscal year under subsection (b).

7 (b) FISCAL YEAR PERCENTAGES.—The percentages
8 of funds appropriated for the National Nuclear Security
9 Administration that are obligated in accordance with the
10 objective under subsection (a) are as follows:

11 (1) In each of fiscal years 2001 and 2002, 0.5
12 percent.

13 (2) In any fiscal year after fiscal year 2002, the
14 percentage recommended by the Administrator for
15 each such fiscal year in the report under subsection
16 (c).

17 (c) RECOMMENDATIONS FOR PERCENTAGES IN
18 LATER FISCAL YEARS.—Not later than one year after the
19 date of the enactment of this Act, the Administrator shall
20 submit to the congressional defense committees a report
21 setting forth the Administrator's recommendations for ap-
22 propriate percentages of funds appropriated for the Na-
23 tional Nuclear Security Administration to be obligated for
24 agreements described in subsection (a) during each fiscal
25 year covered by the report.

1 (d) CONSISTENCY OF AGREEMENTS.—Any agree-
 2 ment entered into under this section shall be consistent
 3 with and in support of the mission of the National Nuclear
 4 Security Administration.

5 (e) REPORTS ON ACHIEVEMENT OF OBJECTIVE.—(1)
 6 Not later than March 30, 2002, and each year thereafter,
 7 the Administrator shall submit to the congressional de-
 8 fense committees a report on whether funds of the Na-
 9 tional Nuclear Security Administration were obligated in
 10 the fiscal year ending in the preceding year in accordance
 11 with the objective for such fiscal year under this section.

12 (2) If funds were not obligated in a fiscal year in ac-
 13 cordance with the objective under this section for such fis-
 14 cal year, the report under paragraph (1) shall—

15 (A) describe the actions the Administrator pro-
 16 poses to take to ensure that the objective under this
 17 section for the current fiscal year and future fiscal
 18 years will be met; and

19 (B) include any recommendations for legislation
 20 required to achieve such actions.

21 **SEC. 3138. CONSTRUCTION OF NATIONAL NUCLEAR SECU-**
 22 **RITY ADMINISTRATION OPERATIONS OFFICE**
 23 **COMPLEX.**

24 (a) AUTHORITY FOR DESIGN AND CONSTRUCTION.—
 25 Subject to subsection (b), the Administrator of the Na-

1 tional Nuclear Security Administration may provide for
2 the design and construction of a new operations office
3 complex for the National Nuclear Security Administration
4 in accordance with the feasibility study regarding such op-
5 erations office complex conducted under the National De-
6 fense Authorization Act for Fiscal Year 2000.

7 (b) LIMITATION.—The Administrator may not exer-
8 cise the authority in subsection (a) until the later of—

9 (1) 30 days after the date on which the plan re-
10 quired by section 3135(a) is submitted to the Com-
11 mittees on Armed Services of the Senate and House
12 of Representatives under that section; or

13 (2) the date on which the Administrator cer-
14 tifies to Congress that the design and construction
15 of the complex in accordance with the feasibility
16 study is consistent with the plan required by section
17 3135(a).

18 (c) BASIS OF AUTHORITY.—The design and construc-
19 tion of the operations office complex authorized by sub-
20 section (a) shall be carried out through one or more energy
21 savings performance contracts (ESPC) entered into under
22 this section and in accordance with the provisions of title
23 VIII of the National Energy Policy Conservation Act (42
24 U.S.C. 8287 et seq.).

(d) PAYMENT OF COSTS.—Amounts for payments of costs associated with the construction of the operations office complex authorized by subsection (a) shall be derived from energy savings and ancillary operation and maintenance savings that result from the replacement of a current Department of Energy operations office complex (as identified in the feasibility study referred to in subsection (a)) with the operations office complex authorized by subsection (a).

Subtitle D—Program Authorizations, Restrictions, and Limitations

SEC. 3151. PROCESSING, TREATMENT, AND DISPOSITION OF LEGACY NUCLEAR MATERIALS.

(a) CONTINUATION.—The Secretary of Energy shall continue operations and maintain a high state of readiness at the F-canyon and H-canyon facilities at the Savannah River Site, Aiken, South Carolina, and shall provide technical staff necessary to operate and so maintain such facilities.

(b) LIMITATION ON USE OF FUNDS FOR DECOMMISSIONING OF F-CANYON FACILITY.—No amounts authorized to be appropriated or otherwise made available for the Department of Energy by this Act or any other Act may be obligated or expended for purposes of commencing

1 the decommissioning of the F-canyon facility at the Savan-
2 nah River Site, including any studies and planning relat-
3 ing to such decommissioning, until the Secretary and the
4 Defense Nuclear Facilities Safety Board jointly submit to
5 the congressional defense committees a certification as fol-
6 lows:

7 (1) That all materials present in the facility as
8 of the date of the certification are safely stabilized.

9 (2) That requirements applicable to the facility
10 in order to meet the future needs of the United
11 States for fissile materials disposition can be met
12 fully utilizing the H-canyon facility at the Savannah
13 River Site.

14 (c) PLAN FOR TRANSFER OF LONG-TERM CHEMICAL
15 SEPARATION ACTIVITIES.—Not later than February 15,
16 2001, the Secretary shall submit to the Committees on
17 Armed Services of the Senate and House of Representa-
18 tives a plan for the transfer of all long-term chemical sepa-
19 ration activities from the F-canyon facility to the H-can-
20 yon facility at the Savannah River Site commencing in fis-
21 cal year 2002.

22 **SEC. 3152. FORMERLY UTILIZED SITES REMEDIAL ACTION**
23 **PROGRAM.**

24 (a) CONTINGENT LIMITATION ON AVAILABILITY OF
25 FUNDS FOR CERTAIN TRAVEL EXPENSES.—Subject to

1 the provisions of this section, no funds authorized to be
 2 appropriated or otherwise made available for the Depart-
 3 ment of Energy by this or any other Act may be obligated
 4 or expended for travel by the Secretary of Energy or any
 5 employees of the Office of the Secretary of Energy.

6 (b) APPLICABILITY.—The prohibition in subsection
 7 (a) shall take effect on March 1, 2001, unless the Sec-
 8 retary of Energy makes a certification to the congressional
 9 defense committees before that date that the Department
 10 of Energy is in compliance with the requirements of sec-
 11 tion 3131 of the National Defense Authorization Act for
 12 Fiscal Year 2000 (Public Law 106–65; 113 Stat. 925; 10
 13 U.S.C. 2701 note).

14 (c) TERMINATION.—If the prohibition in subsection
 15 (a) takes effect under subsection (b), the prohibition shall
 16 remain in effect until the date on which the Secretary
 17 makes the certification described in subsection (b).

18 **SEC. 3153. DEPARTMENT OF ENERGY DEFENSE NUCLEAR**
 19 **NONPROLIFERATION PROGRAMS.**

20 (a) NUCLEAR MATERIALS PROTECTION, CONTROL,
 21 AND ACCOUNTING PROGRAM.—(1) Not later than Janu-
 22 ary 1, 2001, and each year thereafter, the Secretary of
 23 Energy shall submit to the Committees on Armed Services
 24 of the Senate and House of Representatives a report on
 25 the status of efforts during the preceding fiscal year under

1 the Nuclear Materials Protection, Control, and Accounting
2 Program of the Department of Energy to secure weapons-
3 usable nuclear materials in Russia that have been identi-
4 fied as being at risk for theft or diversion.

5 (2) Each report under paragraph (1) shall set forth
6 the following:

7 (A) The number of buildings, including building
8 locations, that received complete and integrated ma-
9 terials protection, control, and accounting systems
10 for nuclear materials described in paragraph (1)
11 during the year covered by such report.

12 (B) The amounts of highly enriched uranium
13 and plutonium in Russia that have been secured
14 under systems described in subparagraph (A) as of
15 the date of such report.

16 (C) The amount of nuclear materials described
17 in paragraph (1) that continues to require securing
18 under systems described in subparagraph (A) as of
19 the date of such report.

20 (D) A plan for actions to secure the nuclear
21 materials identified in subparagraph (C) under sys-
22 tems described in subparagraph (A), including an es-
23 timate of the cost of such actions.

24 (E) The amounts expended through the fiscal
25 year preceding the date of such report to secure nu-

1 clear materials described in paragraph (1) under
2 systems described in subparagraph (A), set forth by
3 total amount and by amount per fiscal year.

4 (3)(A) No amounts authorized to be appropriated for
5 the Department of Energy by this Act or any other Act
6 for purposes of the Nuclear Materials Protection, Control,
7 and Accounting Program may be obligated or expended
8 after September 30, 2000, for any project under the pro-
9 gram at a nuclear weapons complex in Russia until the
10 Secretary submits to the Committees on Armed Services
11 of the Senate and House of Representatives a report on
12 the access policy established with respect to such project,
13 including a certification that the access policy has been
14 implemented.

15 (B) The access policy with respect to a project under
16 this paragraph shall—

17 (i) permit appropriate determinations by United
18 States officials regarding security requirements, in-
19 cluding security upgrades, for the project; and

20 (ii) ensure verification by United States officials
21 that Department of Energy assistance at the project
22 is being used for the purposes intended.

23 (b) NUCLEAR CITIES INITIATIVE.—(1)(A) Except as
24 provided in subparagraph (B), no amounts authorized to
25 be appropriated or otherwise made available for the De-

1 partment of Energy for fiscal year 2001 for the Nuclear
2 Cities Initiative may be obligated or expended for purposes
3 of providing assistance under the Initiative until 30 days
4 after the date on which the Secretary of Energy submits
5 to the Committees on Armed Services of the Senate and
6 House of Representatives a copy of an agreement de-
7 scribed in subparagraph (C).

8 (B) Subparagraph (A) shall not apply with respect
9 to the obligation or expenditure of funds for purposes of
10 providing assistance under the Nuclear Cities Initiative to
11 the following:

12 (i) Not more than three nuclear cities in Rus-
13 sia.

14 (ii) Not more than two serial production facili-
15 ties in Russia.

16 (C) An agreement referred to in this subparagraph
17 is a written agreement between the United States Govern-
18 ment and the Government of the Russian Federation
19 which provides that Russia will close some of its facilities
20 engaged in nuclear weapons assembly and disassembly
21 work.

22 (2)(A) Of the amounts appropriated or otherwise
23 made available for the Department of Energy for fiscal
24 year 2001 for the Nuclear Cities Initiative, not more than
25 50 percent of such amounts may be obligated or expended

1 for purposes of the Initiative until the Secretary of Energy
2 establishes and implements project review procedures for
3 projects under the Initiative.

4 (B) The project review procedures established under
5 subparagraph (A) shall ensure that any scientific, tech-
6 nical, or commercial project initiated under the Nuclear
7 Cities Initiative—

8 (i) shall not enhance the military or weapons of
9 mass destruction capabilities of Russia;

10 (ii) shall not result in the inadvertent transfer
11 or utilization of products or activities under such
12 project for military purposes;

13 (iii) shall be commercially viable; and

14 (iv) shall be carried out in conjunction with an
15 appropriate commercial, industrial, or other non-
16 profit entity as partner.

17 (C) Not later than January 1, 2001, the Secretary
18 of Energy shall submit to the Committees on Armed Serv-
19 ices of the Senate and House of Representatives a report
20 on the project review procedures established and imple-
21 mented under this paragraph.

22 (3) In this subsection, the term “Nuclear Cities Ini-
23 tiative” means the initiative arising pursuant to the March
24 1998 discussion between the Vice President of the United
25 States and the Prime Minister of the Russian Federation

1 and between the Secretary of Energy of the United States
 2 and the Minister of Atomic Energy of the Russian Federa-
 3 tion.

4 (c) INTERNATIONAL NUCLEAR SECURITY PRO-
 5 GRAM.—Amounts authorized to be appropriated or other-
 6 wise made available by this title for the Department of
 7 Energy for fiscal year 2001 for the International Nuclear
 8 Security Program in the former Soviet Union and Eastern
 9 Europe shall be available only for purposes of reactor safe-
 10 ty upgrades and training relating to nuclear operator and
 11 reactor safety.

12 **SEC. 3154. MODIFICATION OF COUNTERINTELLIGENCE**
 13 **POLYGRAPH PROGRAM.**

14 (a) COVERED PERSONS.—Subsection (b) of section
 15 3154 of the Department of Energy Facilities Safeguards,
 16 Security, and Counterintelligence Enhancement Act of
 17 1999 (subtitle D of title XXXI of Public Law 106–65;
 18 113 Stat. 941; 42 U.S.C. 7383h) is amended to read as
 19 follows:

20 “(b) COVERED PERSONS.—(1) Subject to paragraph
 21 (2), for purposes of this section, a covered person is one
 22 of the following:

23 “(A) An officer or employee of the Department.

24 “(B) An expert or consultant under contract to
 25 the Department.

1 “(C) An officer or employee of a contractor of
2 the Department.

3 “(D) An individual assigned or detailed to the
4 Department.

5 “(E) An applicant for a position in the Depart-
6 ment.

7 “(2) A person described in paragraph (1) is a covered
8 person for purposes of this section only if the position of
9 the person, or for which the person is applying, under that
10 paragraph is a position in one of the categories of posi-
11 tions listed in section 709.4 of title 10, Code of Federal
12 Regulations.”.

13 (b) HIGH-RISK PROGRAMS.—Subsection (c) of that
14 section is amended to read as follows:

15 “(c) HIGH-RISK PROGRAMS.—For purposes of this
16 section, high-risk programs are the following:

17 “(1) The programs known as Special Access
18 Programs and Personnel Security and Assurance
19 Programs.

20 “(2) Any other program or position category
21 specified in section 709.4 of title 10, Code of Fed-
22 eral Regulations.”.

23 (c) AUTHORITY TO WAIVE EXAMINATION REQUIRE-
24 MENT.—Subsection (d) of that section is amended—

1 (1) by inserting “(1)” before “The Secretary”;
2 and

3 (2) by adding at the end the following new
4 paragraphs:

5 “(2) Subject to paragraph (3), the Secretary may,
6 after consultation with appropriate security personnel,
7 waive the applicability of paragraph (1) to a covered
8 person—

9 “(A) if—

10 “(i) the Secretary determines that the
11 waiver is important to the national security in-
12 terests of the United States;

13 “(ii) the covered person has an active secu-
14 rity clearance; and

15 “(iii) the covered person acknowledges in a
16 signed writing that the capacity of the covered
17 person to perform duties under a high-risk pro-
18 gram after the expiration of the waiver is condi-
19 tional upon meeting the requirements of para-
20 graph (1) within the effective period of the
21 waiver;

22 “(B) if another Federal agency certifies to the
23 Secretary that the covered person has completed
24 successfully a full-scope or counterintelligence-scope

1 polygraph examination during the 5-year period end-
2 ing on the date of the certification; or

3 “(C) if the Secretary determines, after consulta-
4 tion with the covered person and appropriate med-
5 ical personnel, that the treatment of a medical or
6 psychological condition of the covered person should
7 preclude the administration of the examination.

8 “(3)(A) The Secretary may not commence the exer-
9 cise of the authority under paragraph (2) to waive the ap-
10 plicability of paragraph (1) to any covered persons until
11 15 days after the date on which the Secretary submits
12 to the appropriate committees of Congress a report setting
13 forth the criteria to be utilized by the Secretary for deter-
14 mining when a waiver under paragraph (2)(A) is impor-
15 tant to the national security interests of the United States.
16 The criteria shall include an assessment of counterintel-
17 ligence risks and programmatic impacts.

18 “(B) Any waiver under paragraph (2)(A) shall be ef-
19 fective for not more than 120 days.

20 “(C) Any waiver under paragraph (2)(C) shall be ef-
21 fective for the duration of the treatment on which such
22 waiver is based.

23 “(4) The Secretary shall submit to the appropriate
24 committees of Congress on a semi-annual basis a report
25 on any determinations made under paragraph (2)(A) dur-

1 ing the 6-month period ending on the date of such report.
 2 The report shall include a national security justification
 3 for each waiver resulting from such determinations.

4 “(5) In this subsection, the term ‘appropriate com-
 5 mittees of Congress’ means the following:

6 “(A) The Committee on Armed Services and
 7 the Select Committee on Intelligence of the Senate.

8 “(B) The Committee on Armed Services and
 9 the Permanent Select Committee on Intelligence of
 10 the House of Representatives.

11 “(6) It is the sense of Congress that the waiver au-
 12 thority in paragraph (2) not be used by the Secretary to
 13 exempt from the applicability of paragraph (1) any cov-
 14 ered persons in the highest risk categories, such as per-
 15 sons who have access to the most sensitive weapons design
 16 information and other highly sensitive programs, including
 17 special access programs.

18 “(7) The authority under paragraph (2) to waive the
 19 applicability of paragraph (1) to a covered person shall
 20 expire on September 30, 2002.”.

21 (d) SCOPE OF COUNTERINTELLIGENCE POLYGRAPH
 22 EXAMINATION.—Subsection (f) of that section is
 23 amended—

24 (1) by inserting “terrorism,” after “sabotage,”;
 25 and

1 (2) by inserting “deliberate damage to or mali-
2 cious misuse of a United States Government infor-
3 mation or defense system,” before “and”.

4 **SEC. 3155. EMPLOYEE INCENTIVES FOR EMPLOYEES AT**
5 **CLOSURE PROJECT FACILITIES.**

6 (a) **AUTHORITY TO PROVIDE INCENTIVES.**—Not-
7 withstanding any other provision of law, the Secretary of
8 Energy may provide to any eligible employee of the De-
9 partment of Energy one or more of the incentives de-
10 scribed in subsection (d).

11 (b) **ELIGIBLE EMPLOYEES.**—An individual is an eli-
12 gible employee of the Department of Energy for purposes
13 of this section if the individual—

14 (1) has worked continuously at a closure facility
15 for at least two years;

16 (2) is an employee (as that term is defined in
17 section 2105(a) of title 5, United States Code);

18 (3) has a fully satisfactory or equivalent per-
19 formance rating during the most recent performance
20 period and is not subject to an adverse notice re-
21 garding conduct; and

22 (4) meets any other requirement or condition
23 under subsection (d) for the incentive which is pro-
24 vided the employee under this section.

1 (c) CLOSURE FACILITY DEFINED.—For purposes of
2 this section, the term “closure facility” means a Depart-
3 ment of Energy facility at which the Secretary is carrying
4 out a closure project selected under section 3143 of the
5 National Defense Authorization Act for Fiscal Year 1997
6 (42 U.S.C. 7274n).

7 (d) INCENTIVES.—The incentives that the Secretary
8 may provide under this section are the following:

9 (1) The right to accumulate annual leave pro-
10 vided by section 6303 of title 5, United States Code,
11 for use in succeeding years until it totals not more
12 than 90 days, or not more than 720 hours based on
13 a standard work week, at the beginning of the first
14 full biweekly pay period, or corresponding period for
15 an employee who is not paid on the basis of biweekly
16 pay periods, occurring in a year, except that—

17 (A) any annual leave that remains unused
18 when an employee transfers to a position in a
19 department or agency of the Federal Govern-
20 ment shall be liquidated upon the transfer by
21 payment to the employee of a lump sum for
22 leave in excess of 30 days, or in excess of 240
23 hours based on a standard work week; and

24 (B) upon separation from service, annual
25 leave accumulated under this paragraph shall

1 be treated as any other accumulated annual
2 leave is treated.

3 (2) The right to be paid a retention allowance
4 in a lump sum in compliance with paragraphs (1)
5 and (2) of section 5754(b) of title 5, United States
6 Code, if the employee meets the requirements of sec-
7 tion 5754(a) of that title, except that the retention
8 allowance may exceed 25 percent, but may not be
9 more than 40 percent, of the employee's rate of
10 basic pay.

11 (3) A detail under section 3341 of title 5,
12 United States Code.

13 (4) The right to receive a voluntary separation
14 incentive payment in the amount equal to the
15 amount the employee would be entitled to receive
16 under section 5595(c) of title 5, United States Code,
17 subject to the terms, conditions, and procedures set
18 forth in section 663 of the Treasury, Postal Service,
19 and General Government Appropriations Act, 1997
20 (5 U.S.C. 5597 note), except that the date in section
21 663(c)(2)(D) of that Act does not apply.

22 (e) AGREEMENT.—(1) An eligible employee of the
23 Department of Energy provided an incentive under this
24 section shall enter into an agreement with the Secretary
25 to remain employed at the closure facility at which the

1 employee is employed as of the date of the agreement until
2 a specific date or for a specific period of time.

3 (2) The detail of an employee under subsection (d)(3)
4 shall not be treated as terminating the employment of the
5 employee at a closure facility for purposes of an agreement
6 under paragraph (1).

7 (f) VIOLATION OF AGREEMENT.—(1) Except as pro-
8 vided under paragraph (3), an eligible employee of the De-
9 partment of Energy who violates an agreement under sub-
10 section (e), or is dismissed for cause, shall forfeit eligibility
11 for any incentives under this section as of the date of the
12 violation or dismissal, as the case may be.

13 (2) Except as provided under paragraph (3), an eligi-
14 ble employee of the Department of Energy who is paid
15 a retention allowance under subsection (d)(2), receives a
16 voluntary separation incentive payment under subsection
17 (d)(4), or both, and who violates an agreement under sub-
18 section (e), or is dismissed for cause, before the end of
19 the period or date of employment agreed upon under such
20 agreement shall refund to the United States an amount
21 that bears the same ratio to the aggregate amount so paid
22 to or received by the employee as the unserved part of
23 such employment bears to the total period of employment
24 agreed upon under such agreement.

1 (3) The Secretary may waive the applicability of
 2 paragraph (1) or (2) to an employee otherwise covered by
 3 such paragraph if the Secretary determines that there is
 4 good and sufficient reason for the waiver.

5 (g) REPORT.—The Secretary shall include in each re-
 6 port on a closure project under section 3143(h) of the Na-
 7 tional Defense Authorization Act for Fiscal Year 1997 a
 8 report on the incentives, if any, provided under this section
 9 with respect to the project for the period covered by such
 10 report.

11 (h) EXPIRATION OF AUTHORITY.—The authority to
 12 provide incentives under this section shall expire on Sep-
 13 tember 23, 2011.

14 (i) DETAILS.—(1) Section 3341 of title 5, United
 15 States Code, is amended to read as follows:

16 **“§ 3341. Details: within and among Executive agen-**
 17 **cies; to non-Federal employers**

18 “(a) The head of an Executive agency may detail em-
 19 ployees among the components of the agency, except em-
 20 ployees who are required by law to be engaged exclusively
 21 in some specific work.

22 “(b) The head of an Executive agency may detail to
 23 duties in the Executive agency or another Executive agen-
 24 cy or to a non-Federal employer, on a nonreimbursable
 25 basis, an employee who has been identified by the Execu-

1 tive agency as being, or likely to become, a surplus em-
 2 ployee or displaced employee.

3 “(c) For purposes of this section:

4 “(1) The term ‘Executive agency’ has the
 5 meaning given that term by section 105, but does
 6 not include a Government corporation or the General
 7 Accounting Office.

8 “(2) The term ‘displaced employee’ means an
 9 employee who has been given specific notice that the
 10 employee is to be separated due to a reduction in
 11 force.

12 “(3) The term ‘surplus employee’ means an em-
 13 ployee who has been identified by the employing
 14 agency as likely to be separated due to a reduction
 15 in force.

16 “(4) The term ‘non-Federal employer’ means
 17 an employer other than an Executive agency or any
 18 agency in the legislative or judicial branch (including
 19 Congress or any United States court).”.

20 (2) The table of sections at the beginning of chapter
 21 33 of such title is amended by striking the item relating
 22 to section 3341 and inserting the following new item:

“3341. Details: within and among Executive agencies; to non-Federal employ-
 ers.”.

1 (i) HEALTH COVERAGE.—Section 8905a(d)(4) of
 2 title 5, United States Code, is amended by adding after
 3 subparagraph (B) the following new subparagraph (C):

4 “(C) Notwithstanding subparagraph (B), if the basis
 5 for continued coverage under this section is a voluntary
 6 or involuntary separation from the Department of Energy
 7 by reason of a closure project under section 3143 of the
 8 National Defense Authorization Act for Fiscal Year 1997
 9 (42 U.S.C. 7274n)—

10 “(i) the individual shall be liable for not more
 11 than the employee contributions referred to in para-
 12 graph (1)(A)(i); and

13 “(ii) the Department of Energy shall pay the
 14 remaining portion of the amount required is under
 15 paragraph (1)(A).”.

16 **SEC. 3156. CONCEPTUAL DESIGN FOR SUBSURFACE GEO-**
 17 **SCIENCES LABORATORY AT IDAHO NATIONAL**
 18 **ENGINEERING AND ENVIRONMENTAL LAB-**
 19 **ORATORY, IDAHO FALLS, IDAHO.**

20 (a) AUTHORIZATION.—Of the amounts authorized to
 21 be appropriated by paragraphs (2) and (3) of section
 22 3102(a), not more than \$400,000 shall be available to the
 23 Secretary of Energy for purposes of carrying out a concep-
 24 tual design for a Subsurface Geosciences Laboratory at

1 Idaho National Engineering and Environmental Labora-
2 tory, Idaho Falls, Idaho.

3 (b) LIMITATION.—None of the funds authorized to
4 be appropriated by subsection (a) may be obligated until
5 60 days after the Secretary submits the report required
6 by subsection (c).

7 (c) REPORT.—The Secretary of Energy shall submit
8 to the congressional defense committees a report on the
9 proposed Subsurface Geosciences Laboratory, including
10 the following:

11 (1) The need to conduct mesoscale experiments
12 to meet long-term clean-up requirements at Depart-
13 ment of Energy sites.

14 (2) The possibility of utilizing or modifying an
15 existing structure or facility to house a new
16 mesoscale experimental capability.

17 (3) The estimated construction cost of the facil-
18 ity.

19 (4) The estimated annual operating cost of the
20 facility.

21 (5) How the facility will utilize, integrate, and
22 support the technical expertise, capabilities, and re-
23 quirements at other Department of Energy and non-
24 Department of Energy facilities.

1 (6) An analysis of costs, savings, and benefits
2 which are unique to the Idaho National Engineering
3 and Environmental Laboratory.

4 **SEC. 3157. TANK WASTE REMEDIATION SYSTEM, HANFORD**
5 **RESERVATION, RICHLAND, WASHINGTON.**

6 (a) FUNDS AVAILABLE.—Of the amount authorized
7 to be appropriated by section 3102, \$150,000,000 shall
8 be available to carry out an accelerated cleanup and waste
9 management program at the Department of Energy Han-
10 ford Site in Richland, Washington.

11 (b) REPORT.—Not later than December 15, 2000,
12 the Secretary of Energy shall submit to Congress a report
13 on the Tank Waste Remediation System Project at the
14 Hanford Site. The report shall include the following:

15 (1) A proposed plan for processing and stabi-
16 lizing all nuclear waste located in the Hanford Tank
17 Farm.

18 (2) A proposed schedule for carrying out the
19 plan.

20 (3) The total estimated cost of carrying out the
21 plan.

22 (4) A description of any alternative options to
23 the proposed plan and a description of the costs and
24 benefits of each such option.

1 **SEC. 3158. REPORT ON NATIONAL IGNITION FACILITY, LAW-**
2 **RENCE LIVERMORE NATIONAL LABORATORY,**
3 **LIVERMORE, CALIFORNIA.**

4 (a) NEW BASELINE.—(1) Not more than 50 percent
5 of the funds available for the national ignition facility
6 (Project 96–D–111) may be obligated or expended until
7 the Secretary of Energy submits to the Committees on
8 Armed Services of the Senate and House of Representa-
9 tives a report setting forth a new baseline plan for the
10 completion of the national ignition facility.

11 (2) The report shall include a detailed, year-by-year
12 breakdown of the funding required for completion of the
13 facility, as well as projected dates for the completion of
14 program milestones, including the date on which the first
15 laser beams are expected to become operational.

16 (b) COMPTROLLER GENERAL REVIEW OF NIF PRO-
17 GRAM.—(1) The Comptroller General shall conduct a thor-
18 ough review of the national ignition facility program.

19 (2) Not later than March 31, 2001, the Comptroller
20 General shall submit to the Committees on Armed Serv-
21 ices of the Senate and House of Representatives a report
22 on the review conducted under paragraph (1). The report
23 shall include—

24 (A) an analysis of—

1 (i) the relationship of the national ignition
 2 facility program to other key components of the
 3 Stockpile Stewardship Program; and

4 (ii) the potential impact of delays in the
 5 national ignition facility program, and of a fail-
 6 ure to complete key program objectives of the
 7 program, on the other key components of the
 8 Stockpile Stewardship Program, such as the
 9 Advanced Strategic Computing Initiative Pro-
 10 gram;

11 (B) a detailed description and analysis of the
 12 funds spent as of the date of the report on the na-
 13 tional ignition facility program; and

14 (C) an assessment whether Lawrence Livermore
 15 National Laboratory has established a new baseline
 16 plan for the national ignition facility program with
 17 clear goals and achievable milestones for that pro-
 18 gram.

19 **Subtitle E—National Laboratories** 20 **Partnership Improvement Act**

21 **SEC. 3161. SHORT TITLE.**

22 This subtitle may be cited as the “National Labora-
 23 tories Partnership Improvement Act of 2000”.

24 **SEC. 3162. DEFINITIONS.**

25 For purposes of this subtitle—

1 (1) the term “Department” means the Depart-
2 ment of Energy;

3 (2) the term “departmental mission” means
4 any of the functions vested in the Secretary of En-
5 ergy by the Department of Energy Organization Act
6 (42 U.S.C. 7101 et seq.) or other law;

7 (3) the term “institution of higher education”
8 has the meaning given such term in section 1201(a)
9 of the Higher Education Act of 1965 (20 U.S.C.
10 1141(a));

11 (4) the term “National Laboratory” means any
12 of the following institutions owned by the Depart-
13 ment of Energy—

14 (A) Argonne National Laboratory;

15 (B) Brookhaven National Laboratory;

16 (C) Idaho National Engineering and Envi-
17 ronmental Laboratory;

18 (D) Lawrence Berkeley National Labora-
19 tory;

20 (E) Lawrence Livermore National Labora-
21 tory;

22 (F) Los Alamos National Laboratory;

23 (G) National Renewable Energy Labora-
24 tory;

25 (H) Oak Ridge National Laboratory;

1 (I) Pacific Northwest National Laboratory;

2 or

3 (J) Sandia National Laboratory;

4 (5) the term “facility” means any of the fol-
5 lowing institutions owned by the Department of
6 Energy—

7 (A) Ames Laboratory;

8 (B) East Tennessee Technology Park;

9 (C) Environmental Measurement Labora-
10 tory;

11 (D) Fermi National Accelerator Labora-
12 tory;

13 (E) Kansas City Plant;

14 (F) National Energy Technology Labora-
15 tory;

16 (G) Nevada Test Site;

17 (H) Princeton Plasma Physics Laboratory;

18 (I) Savannah River Technology Center;

19 (J) Stanford Linear Accelerator Center;

20 (K) Thomas Jefferson National Accel-
21 erator Facility;

22 (L) Waste Isolation Pilot Plant;

23 (M) Y-12 facility at Oak Ridge National
24 Laboratory; or

1 (N) other similar organization of the De-
2 partment designated by the Secretary that en-
3 gages in technology transfer, partnering, or li-
4 censing activities;

5 (6) the term “nonprofit institution” has the
6 meaning given such term in section 4 of the Steven-
7 son-Wylder Technology Innovation Act of 1980 (15
8 U.S.C. 3703(5));

9 (7) the term “Secretary” means the Secretary
10 of Energy;

11 (8) the term “small business concern” has the
12 meaning given such term in section 3 of the Small
13 Business Act (15 U.S.C. 632);

14 (9) the term “technology-related business con-
15 cern” means a for-profit corporation, company, asso-
16 ciation, firm, partnership, or small business concern
17 that—

18 (A) conducts scientific or engineering re-
19 search,

20 (B) develops new technologies,

21 (C) manufactures products based on new
22 technologies, or

23 (D) performs technological services;

24 (10) the term “technology cluster” means a
25 concentration of—

1 (A) technology-related business concerns;

2 (B) institutions of higher education; or

3 (C) other nonprofit institutions;

4 that reinforce each other's performance through for-
5 mal or informal relationships;

6 (11) the term "socially and economically dis-
7 advantaged small business concerns" has the mean-
8 ing given such term in section 8(a)(4) of the Small
9 Business Act (15 U.S.C. 637(a)(4)); and

10 (12) the term "NNSA" means the National
11 Nuclear Security Administration established by title
12 XXXII of the National Defense Authorization Act
13 for Fiscal Year 2000 (Public Law 106-65).

14 **SEC. 3163. TECHNOLOGY INFRASTRUCTURE PILOT PRO-**
15 **GRAM.**

16 (a) **ESTABLISHMENT.**—The Secretary, through the
17 appropriate officials of the Department, shall establish a
18 Technology Infrastructure Pilot Program in accordance
19 with this section.

20 (b) **PURPOSE.**—The purpose of the program shall be
21 to improve the ability of National Laboratories or facilities
22 to support departmental missions by—

23 (1) stimulating the development of technology
24 clusters that can support the missions of the Na-
25 tional Laboratories or facilities;

1 (2) improving the ability of National Labora-
2 tories or facilities to leverage and benefit from com-
3 mercial research, technology, products, processes,
4 and services; and

5 (3) encouraging the exchange of scientific and
6 technological expertise between National Labora-
7 tories or facilities and—

8 (A) institutions of higher education,

9 (B) technology-related business concerns,

10 (C) nonprofit institutions, and

11 (D) agencies of State, tribal, or local gov-
12 ernments;

13 that can support the missions of the National Lab-
14 oratories and facilities.

15 (c) PILOT PROGRAM.—In each of the first three fiscal
16 years after the date of enactment of this section, the Sec-
17 retary may provide no more than \$10,000,000, divided
18 equally, among no more than 10 National Laboratories
19 or facilities selected by the Secretary to conduct Tech-
20 nology Infrastructure Program Pilot Programs.

21 (d) PROJECTS.—The Secretary shall authorize the
22 Director of each National Laboratory or facility des-
23 ignated under subsection (c) to implement the Technology
24 Infrastructure Pilot Program at such National Laboratory

1 or facility through projects that meet the requirements of
2 subsections (e) and (f).

3 (e) PROGRAM REQUIREMENTS.—Each project funded
4 under this section shall meet the following requirements:

5 (1) MINIMUM PARTICIPANTS.—Each project
6 shall at a minimum include—

7 (A) a National Laboratory or facility; and

8 (B) one of the following entities—

9 (i) a business,

10 (ii) an institution of higher education,

11 (iii) a nonprofit institution, or

12 (iv) an agency of a State, local, or
13 tribal government.

14 (2) COST SHARING.—

15 (A) MINIMUM AMOUNT.—Not less than 50
16 percent of the costs of each project funded
17 under this section shall be provided from non-
18 Federal sources.

19 (B) QUALIFIED FUNDING AND RE-
20 SOURCES.—(i) The calculation of costs paid by
21 the non-Federal sources to a project shall in-
22 clude cash, personnel, services, equipment, and
23 other resources expended on the project.

24 (ii) Independent research and development
25 expenses of Government contractors that qual-

1 ify for reimbursement under section 31–205–
2 18(e) of the Federal Acquisition Regulations
3 issued pursuant to section 25(c)(1) of the Of-
4 fice of Federal Procurement Policy Act (41
5 U.S.C. 421(c)(1)) may be credited towards
6 costs paid by non-Federal sources to a project,
7 if the expenses meet the other requirements of
8 this section.

9 (iii) No funds or other resources expended
10 either before the start of a project under this
11 section or outside the project’s scope of work
12 shall be credited toward the costs paid by the
13 non-Federal sources to the project.

14 (3) COMPETITIVE SELECTION.—All projects
15 where a party other than the Department or a Na-
16 tional Laboratory or facility receives funding under
17 this section shall, to the extent practicable, be com-
18 petitively selected by the National Laboratory or fa-
19 cility using procedures determined to be appropriate
20 by the Secretary or his designee.

21 (4) ACCOUNTING STANDARDS.—Any participant
22 receiving funding under this section, other than a
23 National Laboratory or facility, may use generally
24 accepted accounting principles for maintaining ac-
25 counts, books, and records relating to the project.

1 (5) LIMITATIONS.—No Federal funds shall be
2 made available under this section for—

3 (A) construction; or

4 (B) any project for more than five years.

5 (f) SELECTION CRITERIA.—

6 (1) THRESHOLD FUNDING CRITERIA.—The Sec-
7 retary shall authorize the provision of Federal funds
8 for projects under this section only when the Direc-
9 tor of the National Laboratory or facility managing
10 such a project determines that the project is likely
11 to improve the participating National Laboratory or
12 facility's ability to achieve technical success in meet-
13 ing departmental missions.

14 (2) ADDITIONAL CRITERIA.—The Secretary
15 shall also require the Director of the National Lab-
16 oratory or facility managing a project under this sec-
17 tion to consider the following criteria in selecting a
18 project to receive Federal funds—

19 (A) the potential of the project to succeed,
20 based on its technical merit, team members,
21 management approach, resources, and project
22 plan;

23 (B) the potential of the project to promote
24 the development of a commercially sustainable
25 technology cluster, one that will derive most of

1 the demand for its products or services from
2 the private sector, that can support the mis-
3 sions of the participating National Laboratory
4 or facility;

5 (C) the potential of the project to promote
6 the use of commercial research, technology,
7 products, processes, and services by the partici-
8 pating National Laboratory or facility to
9 achieve its departmental mission or the com-
10 mercial development of technological innova-
11 tions made at the participating National Lab-
12 oratory or facility;

13 (D) the commitment shown by non-Federal
14 organizations to the project, based primarily on
15 the nature and amount of the financial and
16 other resources they will risk on the project;

17 (E) the extent to which the project involves
18 a wide variety and number of institutions of
19 higher education, nonprofit institutions, and
20 technology-related business concerns that can
21 support the missions of the participating Na-
22 tional Laboratory or facility and that will make
23 substantive contributions to achieving the goals
24 of the project;

1 (F) the extent of participation in the
2 project by agencies of State, tribal, or local gov-
3 ernments that will make substantive contribu-
4 tions to achieving the goals of the project; and

5 (G) the extent to which the project focuses
6 on promoting the development of technology-re-
7 lated business concerns that are small business
8 concerns or involves such small business con-
9 cerns substantively in the project.

10 (3) SAVINGS CLAUSE.—Nothing in this sub-
11 section shall limit the Secretary from requiring the
12 consideration of other criteria, as appropriate, in de-
13 termining whether projects should be funded under
14 this section.

15 (g) REPORT TO CONGRESS ON FULL IMPLEMENTA-
16 TION.—Not later than 120 days after the start of the third
17 fiscal year after the date of enactment of this section, the
18 Secretary shall report to Congress on whether the Tech-
19 nology Infrastructure Program should be continued be-
20 yond the pilot stage, and, if so, how the fully implemented
21 program should be managed. This report shall take into
22 consideration the results of the pilot program to date and
23 the views of the relevant Directors of the National labora-
24 tories and facilities. The report shall include any proposals

1 for legislation considered necessary by the Secretary to
2 fully implement the program.

3 **SEC. 3164. SMALL BUSINESS ADVOCACY AND ASSISTANCE.**

4 (a) **ADVOCACY FUNCTION.**—The Secretary shall di-
5 rect the Director of each National Laboratory, and may
6 direct the Director of each facility the Secretary deter-
7 mines to be appropriate, to establish a small business ad-
8 vocacy function that is organizationally independent of the
9 procurement function at the National Laboratory or facil-
10 ity. The person or office vested with the small business
11 advocacy function shall—

12 (1) work to increase the participation of small
13 business concerns, including socially and economi-
14 cally disadvantaged small business concerns, in pro-
15 curements, collaborative research, technology licens-
16 ing, and technology transfer activities conducted by
17 the National Laboratory or facility;

18 (2) report to the Director of the National Lab-
19 oratory or facility on the actual participation of
20 small business concerns in procurements and col-
21 laborative research along with recommendations, if
22 appropriate, on how to improve participation;

23 (3) make available to small business concerns
24 training, mentoring, and clear, up-to-date informa-
25 tion on how to participate in the procurements and

1 collaborative research, including how to submit effective proposals;
2

3 (4) increase the awareness inside the National
4 Laboratory or facility of the capabilities and opportunities presented by small business concerns; and
5

6 (5) establish guidelines for the program under
7 subsection (b) and report on the effectiveness of
8 such program to the Director of the National Laboratory or facility.
9

10 (b) ESTABLISHMENT OF SMALL BUSINESS ASSISTANCE PROGRAM.—The Secretary shall direct the Director
11 of each National Laboratory, and may direct the Director
12 of each facility the Secretary determines to be appropriate,
13 to establish a program to provide small business
14 concerns—
15

16 (1) assistance directed at making them more effective and efficient subcontractors or suppliers to
17 the National Laboratory or facility; or
18

19 (2) general technical assistance, the cost of
20 which shall not exceed \$10,000 per instance of assistance, to improve the small business concern's
21 products or services.
22

23 (c) USE OF FUNDS.—None of the funds expended
24 under subsection (b) may be used for direct grants to the
25 small business concerns.

1 **SEC. 3165. TECHNOLOGY PARTNERSHIPS OMBUDSMAN.**

2 (a) APPOINTMENT OF OMBUDSMAN.—The Secretary
3 shall direct the Director of each National Laboratory, and
4 may direct the Director of each facility the Secretary de-
5 termines to be appropriate, to appoint a technology part-
6 nership ombudsman to hear and help resolve complaints
7 from outside organizations regarding each laboratory’s
8 policies and actions with respect to technology partner-
9 ships (including cooperative research and development
10 agreements), patents, and technology licensing. Each om-
11 budsman shall—

12 (1) be a senior official of the National Labora-
13 tory or facility who is not involved in day-to-day
14 technology partnerships, patents, or technology li-
15 censing, or, if appointed from outside the laboratory,
16 function as such a senior official; and

17 (2) have direct access to the Director of the
18 National Laboratory or facility.

19 (b) DUTIES.—Each ombudsman shall—

20 (1) serve as the focal point for assisting the
21 public and industry in resolving complaints and dis-
22 putes with the laboratory regarding technology part-
23 nerships, patents, and technology licensing;

24 (2) promote the use of collaborative alternative
25 dispute resolution techniques such as mediation to

1 facilitate the speedy and low-cost resolution of com-
 2 plaints and disputes, when appropriate; and

3 (3) report, through the Director of the National
 4 Laboratory or facility, to the Department annually
 5 on the number and nature of complaints and dis-
 6 putes raised, along with the ombudsman's assess-
 7 ment of their resolution, consistent with the protec-
 8 tion of confidential and sensitive information.

9 (c) DUAL APPOINTMENT.—A person vested with the
 10 small business advocacy function of section 3164 may also
 11 serve as the technology partnership ombudsman.

12 **SEC. 3166. STUDIES RELATED TO IMPROVING MISSION EF-**
 13 **FECTIVENESS, PARTNERSHIPS, AND TECH-**
 14 **NOLOGY TRANSFER AT NATIONAL LABORA-**
 15 **TORIES.**

16 (a) STUDIES.—The Secretary shall direct the Lab-
 17 oratory Operations Board to study and report to him, not
 18 later than one year after the date of enactment of this
 19 section, on the following topics—

20 (1) the possible benefits from and need for poli-
 21 cies and procedures to facilitate the transfer of sci-
 22 entific, technical, and professional personnel among
 23 National Laboratories and facilities; and

24 (2) the possible benefits from and need for
 25 changes in—

1 (A) the indemnification requirements for
2 patents or other intellectual property licensed
3 from a National Laboratory or facility;

4 (B) the royalty and fee schedules and
5 types of compensation that may be used for
6 patents or other intellectual property licensed to
7 a small business concern from a National Lab-
8 oratory or facility;

9 (C) the licensing procedures and require-
10 ments for patents and other intellectual prop-
11 erty;

12 (D) the rights given to a small business
13 concern that has licensed a patent or other in-
14 tellectual property from a National Laboratory
15 or facility to bring suit against third parties in-
16 fringing such intellectual property;

17 (E) the advance funding requirements for
18 a small business concern funding a project at a
19 National Laboratory or facility through a
20 Funds-In-Agreement;

21 (F) the intellectual property rights allo-
22 cated to a business when it is funding a project
23 at a National Laboratory or facility through a
24 Funds-In-Agreement; and

1 (G) policies on royalty payments to inven-
 2 tors employed by a contractor-operated Na-
 3 tional Laboratory or facility, including those for
 4 inventions made under a Funds-In-Agreement.

5 (b) DEFINITION.—For the purposes of this section,
 6 the term “Funds-in-Agreement” means a contract be-
 7 tween the Department and a non-Federal organization
 8 where that organization pays the Department to provide
 9 a service or material not otherwise available in the domes-
 10 tic private sector.

11 (c) REPORT TO CONGRESS.—Not later than one
 12 month after receiving the report under subsection (a), the
 13 Secretary shall transmit the report, along with his rec-
 14 ommendations for action and proposals for legislation to
 15 implement the recommendations, to Congress.

16 **SEC. 3167. OTHER TRANSACTIONS AUTHORITY.**

17 (a) NEW AUTHORITY.—Section 646 of the Depart-
 18 ment of Energy Organization Act (42 U.S.C. 7256) is
 19 amended by adding at the end the following new sub-
 20 section:

21 “(g) OTHER TRANSACTIONS AUTHORITY.—(1) In ad-
 22 dition to other authorities granted to the Secretary to
 23 enter into procurement contracts, leases, cooperative
 24 agreements, grants, and other similar arrangements, the
 25 Secretary may enter into other transactions with public

1 agencies, private organizations, or persons on such terms
2 as the Secretary may deem appropriate in furtherance of
3 basic, applied, and advanced research functions now or
4 hereafter vested in the Secretary. Such other transactions
5 shall not be subject to the provisions of section 9 of the
6 Federal Nonnuclear Energy Research and Development
7 Act of 1974 (42 U.S.C. 5908).

8 “(2)(A) The Secretary of Energy shall ensure that—

9 “(i) to the maximum extent practicable, no
10 transaction entered into under paragraph (1) pro-
11 vides for research that duplicates research being
12 conducted under existing programs carried out by
13 the Department of Energy; and

14 “(ii) to the extent that the Secretary determines
15 practicable, the funds provided by the Government
16 under a transaction authorized by paragraph (1) do
17 not exceed the total amount provided by other par-
18 ties to the transaction.

19 “(B) A transaction authorized by paragraph (1) may
20 be used for a research project when the use of a standard
21 contract, grant, or cooperative agreement for such project
22 is not feasible or appropriate.

23 “(3)(A) The Secretary shall not disclose any trade
24 secret or commercial or financial information submitted

1 by a non-Federal entity under paragraph (1) that is privi-
 2 leged and confidential.

3 “(B) The Secretary shall not disclose, for five years
 4 after the date the information is received, any other infor-
 5 mation submitted by a non-Federal entity under para-
 6 graph (1), including any proposal, proposal abstract, docu-
 7 ment supporting a proposal, business plan, or technical
 8 information that is privileged and confidential.

9 “(C) The Secretary may protect from disclosure, for
 10 up to five years, any information developed pursuant to
 11 a transaction under paragraph (1) that would be protected
 12 from disclosure under section 552(b)(4) of title 5, United
 13 States Code, if obtained from a person other than a Fed-
 14 eral agency.”.

15 (b) IMPLEMENTATION.—Not later than six months
 16 after the date of enactment of this section, the Depart-
 17 ment shall establish guidelines for the use of other trans-
 18 actions. Other transactions shall be made available, if
 19 needed, in order to implement projects funded under sec-
 20 tion 3163.

21 **SEC. 3168. CONFORMANCE WITH NNSA ORGANIZATIONAL**
 22 **STRUCTURE.**

23 All actions taken by the Secretary in carrying out this
 24 subtitle with respect to National Laboratories and facili-
 25 ties that are part of the NNSA shall be through the Ad-

1 ministrator for Nuclear Security in accordance with the
2 requirements of title XXXII of the National Defense Au-
3 thorization Act for Fiscal Year 2000.

4 **SEC. 3169. ARCTIC ENERGY.**

5 (a) ESTABLISHMENT.—There is hereby established
6 within the Department of Energy an Office of Arctic En-
7 ergy.

8 (b) PURPOSE.—The purposes of the Office of Arctic
9 Energy are—

10 (1) to promote research, development and de-
11 ployment of electric power technology that is cost-ef-
12 fective and especially well suited to meet the needs
13 of rural and remote regions of the United States, es-
14 pecially where permafrost is present or located near-
15 by; and

16 (2) to promote research, development and de-
17 ployment in such regions of—

18 (A) enhanced oil recovery technology, in-
19 cluding heavy oil recovery, reinjection of carbon
20 and extended reach drilling technologies;

21 (B) gas-to-liquids technology and liquified
22 natural gas (including associated transportation
23 systems);

24 (C) small hydroelectric facilities, river tur-
25 bines and tidal power;

1 (D) natural gas hydrates, coal bed meth-
 2 ane, and shallow bed natural gas; and

3 (E) alternative energy, including wind,
 4 geothermal, and fuel cells.

5 (c) LOCATION.—The Secretary shall locate the Office
 6 of Arctic Energy at a university with special expertise and
 7 unique experience in the matters specified in paragraphs
 8 (1) and (2) of subsection (b).

9 (d) AUTHORIZATION OF APPROPRIATIONS.—There
 10 are authorized to be appropriated to carry out activities
 11 under this section \$1,000,000 for the first fiscal year after
 12 the date of enactment of this section.

13 **Subtitle F—Other Matters**

14 **SEC. 3171. EXTENSION OF AUTHORITY FOR APPOINTMENT** 15 **OF CERTAIN SCIENTIFIC, ENGINEERING, AND** 16 **TECHNICAL PERSONNEL.**

17 Section 3161(c)(1) of the National Defense Author-
 18 ization Act for Fiscal Year 1995 (42 U.S.C. 7231 note)
 19 is amended by striking “September 30, 2000” and insert-
 20 ing “September 30, 2002”.

21 **SEC. 3172. UPDATES OF REPORT ON NUCLEAR TEST READI-** 22 **NESS POSTURES.**

23 Section 3152 of the National Defense Authorization
 24 Act for Fiscal Year 1996 (Public Law 104–106; 110 Stat.
 25 623) is amended—

1 (1) by inserting “(a) REPORT.—” before “Not
2 later than February 15, 1996,”; and

3 (2) by adding at the end the following:

4 “(b) BIENNIAL UPDATES OF REPORT.—(1) The Sec-
5 retary shall submit to the congressional defense commit-
6 tees an update of the report required under (a) not later
7 than February 15, 2001, and every two years thereafter.

8 “(2) Each update under paragraph (1) shall include,
9 current as of the date of such update, the following:

10 “(A) A list and description of the workforce
11 skills and capabilities that are essential to carry out
12 underground nuclear tests at the Nevada Test Site.

13 “(B) A list and description of the infrastructure
14 and physical plant that are essential to carry out un-
15 derground nuclear tests at the Nevada Test Site.

16 “(C) A description of the readiness status of
17 the skills and capabilities described in subparagraph
18 (A) and of the infrastructure and physical plant de-
19 scribed in subparagraph (B).

20 “(3) Each update under paragraph (1) shall be sub-
21 mitted in unclassified form, but may include a classified
22 annex.”.

1 **SEC. 3173. FREQUENCY OF REPORTS ON INADVERTENT RE-**
2 **LEASES OF RESTRICTED DATA AND FOR-**
3 **MERLY RESTRICTED DATA.**

4 (a) FREQUENCY OF REPORTS.—Section 3161(f)(2)
5 of the Strom Thurmond National Defense Authorization
6 Act for Fiscal Year 1999 (Public Law 105–261; 112 Stat.
7 2261; 50 U.S.C. 435 note) is amended to read as follows:
8 “(2) The Secretary of Energy shall, on a quarterly
9 basis, notify the committees and Assistant to the Presi-
10 dent specified in subsection (d) of inadvertent releases de-
11 scribed in paragraph (1) that are discovered after the date
12 of the enactment of this Act.”.

13 (b) EFFECTIVE DATE.—The amendment made by
14 subsection (a) shall take effect on the date of the enact-
15 ment of this Act and shall apply with respect to inad-
16 vertent releases of Restricted Data and Formerly Re-
17 stricted Data that are discovered on or after that date.

18 **SEC. 3174. FORM OF CERTIFICATIONS REGARDING THE**
19 **SAFETY OR RELIABILITY OF THE NUCLEAR**
20 **WEAPONS STOCKPILE.**

21 Any certification submitted to the President by the
22 Secretary of Defense or the Secretary of Energy regarding
23 confidence in the safety or reliability of a nuclear weapon
24 type in the United States nuclear weapons stockpile shall
25 be submitted in classified form only.

1 **SEC. 3175. ENGINEERING AND MANUFACTURING RE-**
2 **SEARCH, DEVELOPMENT, AND DEMONSTRA-**
3 **TION BY PLANT MANAGERS OF CERTAIN NU-**
4 **CLEAR WEAPONS PRODUCTION PLANTS.**

5 (a) **AUTHORITY.**—The Secretary of Energy may au-
6 thorize the plant manager of a covered nuclear weapons
7 production plant to engage in research, development, and
8 demonstration activities with respect to the engineering
9 and manufacturing capabilities at such plant in order to
10 maintain and enhance such capabilities at such plant.

11 (b) **FUNDING.**—Of the amount allocated by the Sec-
12 retary to a covered nuclear weapons production plant each
13 fiscal year from amounts available to the Department of
14 Energy for such fiscal year for national security programs,
15 not more than an amount equal to 2 percent of such
16 amount may be used for activities authorized under sub-
17 section (a).

18 (c) **COVERED NUCLEAR WEAPONS PRODUCTION**
19 **PLANTS.**—For purposes of this section, the term “covered
20 nuclear weapons production plant” means the following:

- 21 (1) The Kansas City Plant, Kansas City, Mis-
22 souri.
- 23 (2) The Y–12 Plant, Oak Ridge, Tennessee.
- 24 (3) The Pantex Plant, Amarillo, Texas.

1 **SEC. 3176. COOPERATIVE RESEARCH AND DEVELOPMENT**
2 **AGREEMENTS FOR GOVERNMENT-OWNED,**
3 **CONTRACTOR-OPERATED LABORATORIES.**

4 (a) STRATEGIC PLANS.—Subsection (a) of section 12
5 of the Stevenson-Wydler Technology Innovation Act of
6 1980 (15 U.S.C. 3710a) is amended by striking “joint
7 work statement,” and inserting “joint work statement or,
8 if permitted by the agency, in an agency-approved annual
9 strategic plan,”.

10 (b) EXPERIMENTAL FEDERAL WAIVERS.—Sub-
11 section (b) of that section is amended by adding at the
12 end the following new paragraph:

13 “(6)(A) In the case of a Department of Energy lab-
14 oratory, a designated official of the Department of Energy
15 may waive any license retained by the Government under
16 paragraph (1)(A), (2), or (3)(D), in whole or in part and
17 according to negotiated terms and conditions, if the des-
18 ignated official finds that the retention of the license by
19 the Department of Energy would substantially inhibit the
20 commercialization of an invention that would otherwise
21 serve an important Federal mission.

22 “(B) The authority to grant a waiver under subpara-
23 graph (A) shall expire on the date that is 5 years after
24 the date of the enactment of the National Defense Author-
25 ization Act for Fiscal Year 2001.

1 “(C) The expiration under subparagraph (B) of au-
 2 thority to grant a waiver under subparagraph (A) shall
 3 not effect any waiver granted under subparagraph (A) be-
 4 fore the expiration of such authority.”.

5 (c) TIME REQUIRED FOR APPROVAL.—Subsection
 6 (c)(5) of that section is amended—

7 (1) by striking subparagraph (C);

8 (2) by redesignating subparagraph (D) as sub-
 9 paragraph (C); and

10 (3) in subparagraph (C), as so redesignated—

11 (A) in clause (i)—

12 (i) by striking “with a small business
 13 firm”; and

14 (ii) by inserting “if” after “state-
 15 ment”; and

16 (B) by adding at the end the following new
 17 clauses:

18 “(iv) Any agency that has contracted with a non-Fed-
 19 eral entity to operate a laboratory may develop and pro-
 20 vide to such laboratory one or more model cooperative re-
 21 search and development agreements for purposes of stand-
 22 ardizing practices and procedures, resolving common legal
 23 issues, and enabling review of cooperative research and de-
 24 velopment agreements to be carried out in a routine and
 25 prompt manner.

1 “(v) A Federal agency may waive the requirements
2 of clause (i) or (ii) under such circumstances as the agency
3 considers appropriate.”.

4 **SEC. 3177. COMMENDATION OF DEPARTMENT OF ENERGY**
5 **AND CONTRACTOR EMPLOYEES FOR EXEM-**
6 **PLARY SERVICE IN STOCKPILE STEWARD-**
7 **SHIP AND SECURITY.**

8 (a) **AUTHORITY TO PRESENT CERTIFICATE OF COM-**
9 **MENDATION.**—The Secretary of Energy may present a
10 certificate of commendation to any current or former em-
11 ployee of the Department of Energy, and any current or
12 former employee of a Department contractor, whose serv-
13 ice to the Department in matters relating to stockpile
14 stewardship and security assisted the Department in fur-
15 thering the national security interests of the United
16 States.

17 (b) **CERTIFICATE.**—The certificate of commendation
18 presented to a current or former employee under sub-
19 section (a) shall include an appropriate citation of the
20 service of the current or former employee described in that
21 subsection, including a citation for dedication, intellect,
22 and sacrifice in furthering the national security interests
23 of the United States by maintaining a strong, safe, and
24 viable United States nuclear deterrent during the Cold
25 War or thereafter.

1 (c) DEPARTMENT OF ENERGY DEFINED.—For pur-
 2 poses of this section, the term “Department of Energy”
 3 includes any predecessor agency of the Department of En-
 4 ergy.

5 **SEC. 3178. ADJUSTMENT OF THRESHOLD REQUIREMENT**
 6 **FOR SUBMISSION OF REPORTS ON AD-**
 7 **VANCED COMPUTER SALES TO TIER III FOR-**
 8 **EIGN COUNTRIES.**

9 Section 3157 of the National Defense Authorization
 10 Act for Fiscal Year 1998 (Public Law 105–85; 111 Stat.
 11 2045) is amended by adding at the end the following:

12 “(e) ADJUSTMENT OF PERFORMANCE LEVELS.—
 13 Whenever a new composite theoretical performance level
 14 is established under section 1211(d), that level shall apply
 15 for purposes of subsection (a) of this section in lieu of
 16 the level set forth in subsection (a).”.

17 **Subtitle G—Russian Nuclear**
 18 **Complex Conversion**

19 **SEC. 3191. SHORT TITLE.**

20 This subtitle may be cited as the “Russian Nuclear
 21 Weapons Complex Conversion Act of 2000”.

22 **SEC. 3192. FINDINGS.**

23 Congress makes the following findings:

24 (1) The Russian nuclear weapons complex has
 25 begun closure and complete reconfiguration of cer-

1 tain weapons complex plants and productions lines.
2 However, this work is at an early stage. The major
3 impediments to downsizing have been economic and
4 social conditions in Russia. Little information about
5 this complex is shared, and 10 of its most sensitive
6 cities remain closed. These cities house 750,000 peo-
7 ple and employ approximately 150,000 people in nu-
8 clear military facilities. Although the Russian Fed-
9 eration Ministry of Atomic Energy has announced
10 the need to significantly downsize its workforce, per-
11 haps by as much as 50 percent, it has been very
12 slow in accomplishing this goal. Information on the
13 extent of any progress is very closely held.

14 (2) The United States, on the other hand, has
15 significantly downsized its nuclear weapons complex
16 in an open and transparent manner. As a result, an
17 enormous asymmetry now exists between the United
18 States and Russia in nuclear weapon production ca-
19 pacities and in transparency of such capacities. It is
20 in the national security interest of the United States
21 to assist the Russian Federation in accomplishing
22 significant reductions in its nuclear military complex
23 and in helping it to protect its nuclear weapons, nu-
24 clear materials, and nuclear secrets during such re-
25 ductions. Such assistance will accomplish critical

1 nonproliferation objectives and provide essential sup-
2 port towards future arms reduction agreements. The
3 Russian Federation's program to close and recon-
4 figure weapons complex plants and production lines
5 will address, if it is implemented in a significant and
6 transparent manner, concerns about the Russian
7 Federation's ability to quickly reconstitute its arse-
8 nal.

9 (3) Several current programs address portions
10 of the downsizing and nuclear security concerns. The
11 Nuclear Cities Initiative was established to assist
12 Russia in creating job opportunities for employees
13 who are not required to support realistic Russian
14 nuclear security requirements. Its focus has been on
15 creating commercial ventures that can provide self-
16 sustaining jobs in three of the closed cities. The cur-
17 rent scope and funding of the program are not com-
18 mensurate with the scale of the threats to the
19 United States sought to be addressed by the pro-
20 gram.

21 (4) To effectively address threats to United
22 States national security interests, progress with re-
23 spect to the nuclear cities must be expanded and ac-
24 celerated. The Nuclear Cities Initiative has laid the
25 groundwork for an immediate increase in investment

1 which offers the potential for prompt risk reduction
2 in the cities of Sarov, Snezhinsk, and Zheleznogorsk,
3 which house four key Russian nuclear facilities. Fur-
4 thermore, the Nuclear Cities Initiative has made
5 considerable progress with the limited funding avail-
6 able. However, to gain sufficient advocacy for addi-
7 tional support, the program must demonstrate—

8 (A) rapid progress in conversion and re-
9 structuring; and

10 (B) an ability for the United States to
11 track progress against verifiable milestones that
12 support a Russian nuclear complex consistent
13 with their future national security require-
14 ments.

15 (5) Reductions in the nuclear weapons-grade
16 material stocks in the United States and Russia en-
17 hance prospects for future arms control agreements
18 and reduce concerns that these materials could lead
19 to proliferation risks. Confidence in both nations will
20 be enhanced by knowledge of the extent of each na-
21 tion's stockpiles of weapons-grade materials. The
22 United States already makes this information public.

23 (6) Many current programs contribute to the
24 goals stated herein. However, the lack of pro-
25 grammatic coordination within and among United

1 States Government agencies impedes the capability
2 of the United States to make rapid progress. A for-
3 mal single point of coordination is essential to en-
4 sure that all United States programs directed at co-
5 operative threat reduction, nuclear materials reduc-
6 tion and protection, and the downsizing, trans-
7 parency, and nonproliferation of the nuclear weap-
8 ons complex effectively mitigate the risks inherent in
9 the Russian Federation's military complex.

10 (7) Specialists in the United States and the
11 former Soviet Union trained in nonproliferation
12 studies can significantly assist in the downsizing
13 process while minimizing the threat presented by po-
14 tential proliferation of weapons materials or exper-
15 tise.

16 **SEC. 3193. EXPANSION AND ENHANCEMENT OF NUCLEAR**
17 **CITIES INITIATIVE.**

18 (a) IN GENERAL.—The Secretary of Energy shall, in
19 accordance with the provisions of this section, take appro-
20 priate actions to expand and enhance the activities under
21 the Nuclear Cities Initiative in order to—

22 (1) assist the Russian Federation in the
23 downsizing of the Russian Nuclear Complex; and

1 (2) coordinate the downsizing of the Russian
2 Nuclear Complex under the Initiative with other
3 United States nonproliferation programs.

4 (b) ENHANCED USE OF MINATOM TECHNOLOGY
5 AND RESEARCH AND DEVELOPMENT SERVICES.—In car-
6 rying out actions under this section, the Secretary of En-
7 ergy shall facilitate the enhanced use of the technology,
8 and the research and development services, of the Russia
9 Ministry of Atomic Energy (MINATOM) by—

10 (1) fostering the commercialization of peaceful,
11 non-threatening advanced technologies of the Min-
12 istry through the development of projects to com-
13 mercialize research and development services for in-
14 dustry and industrial entities; and

15 (2) authorizing the Department of Energy, and
16 encouraging other departments and agencies of the
17 United States Government, to utilize such research
18 and development services for activities appropriate
19 to the mission of the Department, and such depart-
20 ments and agencies, including activities relating to—

21 (A) nonproliferation (including the detec-
22 tion and identification of weapons of mass de-
23 struction and verification of treaty compliance);

24 (B) global energy and environmental mat-
25 ters; and

1 (C) basic scientific research of benefit to
2 the United States.

3 (c) ACCELERATION OF NUCLEAR CITIES INITIA-
4 TIVE.—(1) In carrying out actions under this section, the
5 Secretary of Energy shall accelerate the Nuclear Cities
6 Initiative by implementing, as soon as practicable after the
7 date of the enactment of this Act, programs at the nuclear
8 cities referred to in paragraph (2) in order to convert sig-
9 nificant portions of the activities carried out at such nu-
10 clear cities from military activities to civilian activities.

11 (2) The nuclear cities referred to in this paragraph
12 are the following:

13 (A) Sarov (Arzamas–16).

14 (B) Snezhinsk (Chelyabinsk–70).

15 (C) Zheleznogorsk (Krasnoyarsk–26).

16 (3) To advance nonproliferation and arms control ob-
17 jectives, the Nuclear Cities Initiative is encouraged to
18 begin planning for accelerated conversion, commensurate
19 with available resources, in the remaining nuclear cities.

20 (4) Before implementing a program under paragraph
21 (1), the Secretary shall establish appropriate, measurable
22 milestones for the activities to be carried out in fiscal year
23 2001.

24 (d) PLAN FOR RESTRUCTURING THE RUSSIAN NU-
25 CLEAR COMPLEX.—(1) The President, acting through the

1 Secretary of Energy, is urged to enter into negotiations
2 with the Russian Federation for purposes of the develop-
3 ment by the Russian Federation of a plan to restructure
4 the Russian Nuclear Complex in order to meet changes
5 in the national security requirements of Russia by 2010.

6 (2) The plan under paragraph (1) should include the
7 following:

8 (A) Mechanisms to achieve a nuclear weapons
9 production capacity in Russia that is consistent with
10 the obligations of Russia under current and future
11 arms control agreements.

12 (B) Mechanisms to increase transparency re-
13 garding the restructuring of the nuclear weapons
14 complex and weapons-surplus nuclear materials in-
15 ventories in Russia to the levels of transparency for
16 such matters in the United States, including the
17 participation of Department of Energy officials with
18 expertise in transparency of such matters.

19 (C) Measurable milestones that will permit the
20 United States and the Russian Federation to mon-
21 itor progress under the plan.

22 (e) ENCOURAGEMENT OF CAREERS IN NON-
23 PROLIFERATION.—(1) In carrying out actions under this
24 section, the Secretary of Energy shall carry out a program
25 to encourage students in the United States and in the

1 Russian Federation to pursue a career in an area relating
2 to nonproliferation.

3 (2) Of the amounts under subsection (f), up to
4 \$2,000,000 shall be available for purposes of the program
5 under paragraph (1).

6 (f) FUNDING FOR FISCAL YEAR 2001.—(1) There is
7 hereby authorized to be appropriated for the Department
8 of Energy for fiscal year 2001, \$30,000,000 for purposes
9 of the Nuclear Cities Initiative, including activities under
10 this section.

11 (2) The amount authorized to be appropriated by sec-
12 tion 101(5) for other procurement for the Army is hereby
13 reduced by \$12,500,000, with the amount of the reduction
14 to be allocated to the Close Combat Tactical Trainer.

15 (g) LIMITATION ON AVAILABILITY OF FUNDS FOR
16 NUCLEAR CITIES INITIATIVE.—No amount in excess of
17 \$17,500,000 authorized to be appropriated for the De-
18 partment of Energy for fiscal year 2001 for the Nuclear
19 Cities Initiative may be obligated or expended for purposes
20 of providing assistance under the Initiative until 30 days
21 after the date on which the Secretary of Energy submits
22 to the Committees on Armed Services of the Senate and
23 House of Representatives the following:

24 (1) A copy of the written agreement between
25 the United States Government and the Government

1 of the Russian Federation which provides that Rus-
2 sia will close some of its facilities engaged in nuclear
3 weapons assembly and disassembly work within five
4 years in exchange for participation in the Initiative.

5 (2) A certification by the Secretary that—

6 (A) project review procedures for all
7 projects under the Initiative have been estab-
8 lished and implemented; and

9 (B) such procedures will ensure that any
10 scientific, technical, or commercial project initi-
11 ated under the Initiative—

12 (i) will not enhance the military or
13 weapons of mass destruction capabilities of
14 Russia;

15 (ii) will not result in the inadvertent
16 transfer or utilization of products or activi-
17 ties under such project for military pur-
18 poses;

19 (iii) will be commercially viable within
20 three years of the date of the certification;
21 and

22 (iv) will be carried out in conjunction
23 with an appropriate commercial, industrial,
24 or other nonprofit entity as partner.

25 (3) A report setting forth the following:

1 (A) The project review procedures referred
2 to in paragraph (2)(A).

3 (B) A list of the projects under the Initia-
4 tive that have been reviewed under such project
5 review procedures.

6 (C) A description for each project listed
7 under subparagraph (B) of the purpose, life-
8 cycle, out-year budget costs, participants, com-
9 mercial viability, expected time for income gen-
10 eration, and number of Russian jobs created.

11 (h) SENSE OF CONGRESS ON FUNDING FOR FISCAL
12 YEARS AFTER FISCAL YEAR 2001.—It is the sense of
13 Congress that the availability of funds for the Nuclear Cit-
14 ies Initiative in fiscal years after fiscal year 2001 should
15 be contingent upon—

16 (1) demonstrable progress in the programs car-
17 ried out under subsection (c), as determined utilizing
18 the milestones required under paragraph (4) of that
19 subsection; and

20 (2) the development and implementation of the
21 plan required by subsection (d).

22 **SEC. 3194. SENSE OF CONGRESS ON THE ESTABLISHMENT**
23 **OF A NATIONAL COORDINATOR FOR NON-**
24 **PROLIFERATION MATTERS.**

25 It is the sense of Congress that—

(1) there should be a National Coordinator for Nonproliferation Matters to coordinate—

(A) the Nuclear Cities Initiative;

(B) the Initiatives for Proliferation Prevention program;

(C) the Cooperative Threat Reduction programs;

(D) the materials protection, control, and accounting programs; and

(E) the International Science and Technology Center; and

(2) the position of National Coordinator for Nonproliferation Matters should be similar, regarding nonproliferation matters, to the position filled by designation of the President under section 1441(a) of the Defense Against Weapons of Mass Destruction Act of 1996 (title XIV of Public Law 104–201; 110 Stat. 2727; 50 U.S.C. 2351(a)).

SEC. 3195. DEFINITIONS.

In this subtitle:

(1) **NUCLEAR CITY.**—The term “nuclear city” means any of the closed nuclear cities within the complex of the Russia Ministry of Atomic Energy (MINATOM) as follows:

(A) Sarov (Arzamas–16).

- 1 (B) Zarechnyy (Penza–19).
- 2 (C) Novoural'sk (Sverdlovsk–44).
- 3 (D) Lesnoy (Sverdlovsk–45).
- 4 (E) Ozersk (Chelyabinsk–65).
- 5 (F) Snezhinsk (Chelyabinsk–70).
- 6 (G) Trekhgornyy (Zlatoust–36).
- 7 (H) Seversk (Tomsk–7).
- 8 (I) Zhelenznogorsk (Krasnoyarsk–26).
- 9 (J) Zelenogorsk (Krasnoyarsk–45).

10 (2) RUSSIAN NUCLEAR COMPLEX.—The term
 11 “Russian Nuclear Complex” refers to all of the nu-
 12 clear cities.

13 **TITLE XXXII—DEFENSE NU-**
 14 **CLEAR FACILITIES SAFETY**
 15 **BOARD**

16 **SEC. 3201. DEFENSE NUCLEAR FACILITIES SAFETY BOARD.**

17 There are authorized to be appropriated for fiscal
 18 year 2001, \$18,500,000 for the operation of the Defense
 19 Nuclear Facilities Safety Board under chapter 21 of the
 20 Atomic Energy Act of 1954 (42 U.S.C. 2286 et seq.).

**TITLE XXXIII—NAVAL
PETROLEUM RESERVES**

**SEC. 3301. MINIMUM PRICE OF PETROLEUM SOLD FROM
THE NAVAL PETROLEUM RESERVES.**

(a) HIGHER MINIMUM PRICE.—Subparagraph (A) of section 7430(b)(2) of title 10, United States Code, is amended by striking “90 percent of”.

(b) INAPPLICABILITY OF REQUIREMENT TO RESERVE NUMBERED 1.—Such section 7430(b)(2) is further amended by striking “Naval Petroleum Reserves Numbered 1, 2, and 3” in the matter preceding subparagraph (A) and inserting “Naval Petroleum Reserves Numbered 2 and 3”.

**SEC. 3302. REPEAL OF AUTHORITY TO CONTRACT FOR CO-
OPERATIVE OR UNIT PLANS AFFECTING
NAVAL PETROLEUM RESERVE NUMBERED 1.**

(a) REPEAL.—Section 7426 of title 10, United States Code, is repealed.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 641 of such title is amended by striking the item relating to section 7426.

SEC. 3303. LAND TRANSFER AND RESTORATION.

(a) SHORT TITLE.—This section may be cited as the “Ute-Moab Land Restoration Act”.

1 (b) TRANSFER OF OIL SHALE RESERVE.—Section
 2 3405 of the Strom Thurmond National Defense Author-
 3 ization Act for Fiscal Year 1999 (10 U.S.C. 7420 note;
 4 Public Law 105–261) is amended to read as follows:

5 **“SEC. 3405. TRANSFER OF OIL SHALE RESERVE NUMBERED**

6 **2.**

7 “(a) DEFINITIONS.—In this section:

8 “(1) MAP.—The term “map” means the map
 9 depicting the boundaries of NOSR–2, to be kept on
 10 file and available for public inspection in the offices
 11 of the Department of the Interior.

12 “(2) MOAB SITE.—The term ‘Moab site’ means
 13 the Moab uranium milling site located approximately
 14 3 miles northwest of Moab, Utah, and identified in
 15 the Final Environmental Impact Statement issued
 16 by the Nuclear Regulatory Commission in March
 17 1996, in conjunction with Source Material License
 18 No. SUA 917.

19 “(3) NOSR–2.—The term ‘NOSR–2’ means Oil
 20 Shale Reserve Numbered 2, as identified on a map
 21 on file in the Office of the Secretary of the Interior.

22 “(4) TRIBE.—The term ‘Tribe’ means the Ute
 23 Indian Tribe of the Uintah and Ouray Indian Res-
 24 ervation.

25 “(b) CONVEYANCE.—

1 “(1) IN GENERAL.—Except as provided in para-
2 graph (2), the United States conveys to the Tribe,
3 subject to valid existing rights in effect on the day
4 before the date of enactment of this section, all Fed-
5 eral land within the exterior boundaries of NOSR-
6 2 in fee simple (including surface and mineral
7 rights).

8 “(2) RESERVATIONS.—The conveyance under
9 paragraph (1) shall not include the following res-
10 ervations of the United States:

11 “(A) A 9 percent royalty interest in the
12 value of any oil, gas, other hydrocarbons, and
13 all other minerals from the conveyed land that
14 are produced, saved, and sold, the payments for
15 which shall be made by the Tribe or its des-
16 ignee to the Secretary of Energy during the pe-
17 riod that the oil, gas, hydrocarbons, or minerals
18 are being produced, saved, sold, or extracted.

19 “(B) The portion of the bed of Green
20 River contained entirely within NOSR-2, as de-
21 picted on the map.

22 “(C) The land (including surface and min-
23 eral rights) to the west of the Green River with-
24 in NOSR-2, as depicted on the map.

1 “(D) A ¼ mile scenic easement on the
2 east side of the Green River within NOSR–2.

3 “(3) CONDITIONS.—

4 “(A) MANAGEMENT AUTHORITY.—On com-
5 pletion of the conveyance under paragraph (1),
6 the United States relinquishes all management
7 authority over the conveyed land (including
8 tribal activities conducted on the land).

9 “(B) NO REVERSION.—The land conveyed
10 to the Tribe under this subsection shall not re-
11 vert to the United States for management in
12 trust status.

13 “(C) USE OF EASEMENT.—The reservation
14 of the easement under paragraph (2)(D) shall
15 not affect the right of the Tribe to obtain, use,
16 and maintain access to, the Green River
17 through the use of the road within the ease-
18 ment, as depicted on the map.

19 “(c) WITHDRAWALS.—Each withdrawal that applies
20 to NOSR–2 and that is in effect on the date of enactment
21 of this section is revoked to the extent that the withdrawal
22 applies to NOSR–2.

23 “(d) ADMINISTRATION OF RESERVED LAND AND IN-
24 TERESTS IN LAND.—

1 “(1) IN GENERAL.—The Secretary of the Inte-
2 rior shall administer the land and interests in land
3 reserved from conveyance under subparagraphs (B)
4 and (C) of subsection (b)(2) in accordance with the
5 Federal Land Policy and Management Act of 1976
6 (43 U.S.C. 1701 et seq.).

7 “(2) MANAGEMENT PLAN.—Not later than 3
8 years after the date of enactment of this section, the
9 Secretary shall submit to Congress a land use plan
10 for the management of the land and interests in
11 land referred to in paragraph (1).

12 “(3) AUTHORIZATION OF APPROPRIATIONS.—
13 There are authorized to be appropriated to the Sec-
14 retary such sums as are necessary to carry out this
15 subsection.

16 “(e) ROYALTY.—

17 “(1) PAYMENT OF ROYALTY.—The royalty in-
18 terest reserved from conveyance in subsection
19 (b)(2)(A) that is required to be paid by the Tribe
20 shall not include any development, production, mar-
21 keting, and operating expenses.

22 “(2) REPORT.—The Tribe shall submit to the
23 Secretary of Energy and to Congress an annual re-
24 port on resource development and other activities of

1 the Tribe concerning the conveyance under sub-
2 section (b).

3 “(3) FINANCIAL AUDIT.—

4 “(A) IN GENERAL.—Not later than 5 years
5 after the date of enactment of this section, and
6 every 5 years thereafter, the Tribe shall obtain
7 an audit of all resource development activities
8 of the Tribe concerning the conveyance under
9 subsection (b), as provided under chapter 75 of
10 title 31, United States Code.

11 “(B) INCLUSION OF RESULTS.—The re-
12 sults of each audit under this paragraph shall
13 be included in the next annual report submitted
14 after the date of completion of the audit.

15 “(f) RIVER MANAGEMENT.—

16 “(1) IN GENERAL.—The Tribe shall manage,
17 under Tribal jurisdiction and in accordance with or-
18 dinances adopted by the Tribe, land of the Tribe
19 that is adjacent to, and within $\frac{1}{4}$ mile of, the Green
20 River in a manner that—

21 “(A) maintains the protected status of the
22 land; and

23 “(B) is consistent with the government-to-
24 government agreement and in the memorandum

1 of understanding dated February 11, 2000, as
2 agreed to by the Tribe and the Secretary.

3 “(2) NO MANAGEMENT RESTRICTIONS.—An or-
4 dinance referred to in paragraph (1) shall not im-
5 pair, limit, or otherwise restrict the management
6 and use of any land that is not owned, controlled,
7 or subject to the jurisdiction of the Tribe.

8 “(3) REPEAL OR AMENDMENT.—An ordinance
9 adopted by the Tribe and referenced in the govern-
10 ment-to-government agreement may not be repealed
11 or amended without the written approval of—

12 “(A) the Tribe; and

13 “(B) the Secretary.

14 “(g) PLANT SPECIES.—

15 “(1) IN GENERAL.—In accordance with a gov-
16 ernment-to-government agreement between the Tribe
17 and the Secretary, in a manner consistent with levels
18 of legal protection in effect on the date of enactment
19 of this section, the Tribe shall protect, under ordi-
20 nances adopted by the Tribe, any plant species that
21 is—

22 “(A) listed as an endangered species or
23 threatened species under section 4 of the En-
24 dangered Species Act of 1973 (16 U.S.C.
25 1533); and

1 “(B) located or found on the NOSR-2
2 land conveyed to the Tribe.

3 “(2) TRIBAL JURISDICTION.—The protection
4 described in paragraph (1) shall be performed solely
5 under tribal jurisdiction

6 “(h) HORSES.—

7 “(1) IN GENERAL.—The Tribe shall manage,
8 protect, and assert control over any horse not owned
9 by the Tribe or tribal members that is located or
10 found on the NOSR-2 land conveyed to the Tribe in
11 a manner that is consistent with Federal law gov-
12 erning the management, protection, and control of
13 horses in effect on the date of enactment of this sec-
14 tion.

15 “(2) TRIBAL JURISDICTION.—The management,
16 control, and protection of horses described in para-
17 graph (1) shall be performed solely—

18 “(A) under tribal jurisdiction; and

19 “(B) in accordance with a government-to-
20 government agreement between the Tribe and
21 the Secretary.

22 “(i) REMEDIAL ACTION AT MOAB SITE.—

23 “(1) INTERIM REMEDIAL ACTION.—

24 “(A) PLAN.—Not later than 1 year after
25 the date of enactment of this section, the Sec-

1 retary of Energy shall prepare a plan for reme-
2 dial action, including ground water restoration,
3 at the uranium milling site near Moab, Utah,
4 under section 102(a) of the Uranium Mill
5 Tailings Radiation Control Act of 1978 (42
6 U.S.C. 7912(a)).

7 “(B) COMMENCEMENT OF REMEDIAL AC-
8 TION.—The Secretary of Energy shall com-
9 mence remedial action as soon as practicable
10 after the preparation of the plan.

11 “(C) TERMINATION OF LICENSE.—The li-
12 cense for the materials at the site issued by the
13 Nuclear Regulatory Commission shall terminate
14 1 year from the date of enactment of this sec-
15 tion, unless the Secretary of Energy determines
16 that the license may be terminated earlier.

17 “(D) ACTIVITIES OF THE TRUSTEE OF
18 THE MOAB RECLAMATION TRUST.— Until the
19 license referred to in subparagraph (C) termi-
20 nates, the Trustee of the Moab Reclamation
21 Trust (referred to in this paragraph as the
22 ‘Trustee’), subject to the availability of funds
23 appropriated specifically for a purpose described
24 in clauses (i) through (iii) or made available by

1 the Trustee from the Moab Reclamation Trust,
2 may carry out—

3 “(i) interim measures to reduce or
4 eliminate localized high ammonia con-
5 centrations identified by the United States
6 Geological Survey in a report dated March
7 27, 2000, in the Colorado River;

8 “(ii) activities to dewater the mill
9 tailings; and

10 “(iii) other activities, subject to the
11 authority of the Secretary of Energy and
12 the Nuclear Regulatory Commission.

13 “(E) TITLE; CARETAKING.—Until the date
14 on which the Moab site is sold under paragraph
15 (4), the Trustee—

16 “(i) shall maintain title to the site;
17 and

18 “(ii) shall act as a caretaker of the
19 property and in that capacity exercise
20 measures of physical safety consistent with
21 past practice, until the Secretary of En-
22 ergy relieves the Trustee of that responsi-
23 bility.

1 “(2) LIMIT ON EXPENDITURES.—The Secretary
2 shall limit the amounts expended in carrying out the
3 remedial action under paragraph (1) to—

4 “(A) amounts specifically appropriated for
5 the remedial action in an Act of appropriation;
6 and

7 “(B) other amounts made available for the
8 remedial action under this subsection.

9 “(3) RETENTION OF ROYALTIES.—

10 “(A) IN GENERAL.—The Secretary of En-
11 ergy shall retain the amounts received as roy-
12 alties under subsection (e)(1).

13 “(B) AVAILABILITY.—Amounts referred to
14 in subparagraph (A) shall be available, without
15 further Act of appropriation, to carry out the
16 remedial action under paragraph (1).

17 “(C) EXCESS AMOUNTS.—On completion
18 of the remedial action under paragraph (1), all
19 remaining royalty amounts shall be deposited in
20 the General Fund of the Treasury.

21 “(D) EXCLUSION OF NATIONAL SECURITY
22 ACTIVITIES FUNDING.—The Secretary shall not
23 use any funds made available to the Depart-
24 ment of Energy for national security activities

1 to carry out the remedial action under para-
2 graph (1).

3 “(E) AUTHORIZATION OF APPROPRIA-
4 TIONS.—There are authorized to be appro-
5 priated to the Secretary of Energy to carry out
6 the remedial action under paragraph (1) such
7 sums as are necessary.

8 “(4) SALE OF MOAB SITE.—

9 “(A) IN GENERAL.—If the Moab site is
10 sold after the date on which the Secretary of
11 Energy completes the remedial action under
12 paragraph (1), the seller shall pay to the Sec-
13 retary of Energy, for deposit in the miscella-
14 neous receipts account of the Treasury, the por-
15 tion of the sale price that the Secretary deter-
16 mines resulted from the enhancement of the
17 value of the Moab site that is attributable to
18 the completion of the remedial action, as deter-
19 mined in accordance with subparagraph (B).

20 “(B) DETERMINATION OF ENHANCED
21 VALUE.—The enhanced value of the Moab site
22 referred to in subparagraph (A) shall be equal
23 to the difference between—

24 “(i) the fair market value of the Moab
25 site on the date of enactment of this sec-

1 tion, based on information available on
2 that date; and

3 “(ii) the fair market value of the
4 Moab site, as appraised on completion of
5 the remedial action.”.

6 (c) URANIUM MILL TAILINGS.—Section 102(a) of the
7 Uranium Mill Tailings Radiation Control Act of 1978 (42
8 U.S.C. 7912(a)) is amended by inserting after paragraph
9 (3) the following:

10 “(4) DESIGNATION AS PROCESSING SITE.—

11 “(A) IN GENERAL.—Notwithstanding any
12 other provision of law, the Moab uranium mill-
13 ing site (referred to in this paragraph as the
14 ‘Moab Site’) located approximately 3 miles
15 northwest of Moab, Utah, and identified in the
16 Final Environmental Impact Statement issued
17 by the Nuclear Regulatory Commission in
18 March 1996, in conjunction with Source Mate-
19 rial License No. SUA 917, is designated as a
20 processing site.

21 “(B) APPLICABILITY.—This title applies to
22 the Moab Site in the same manner and to the
23 same extent as to other processing sites des-
24 ignated under this subsection, except that—

1 “(i) sections 103, 107(a), 112(a), and
2 115(a) of this title shall not apply;

3 “(ii) a reference in this title to the
4 date of the enactment of this Act shall be
5 treated as a reference to the date of enact-
6 ment of this paragraph; and

7 “(iii) the Secretary, subject to the
8 availability of appropriations and without
9 regard to section 104(b), shall conduct re-
10 mediation at the Moab site in a safe and
11 environmentally sound manner,
12 including—

13 “(I) ground water restoration;
14 and

15 “(II) the removal, to at a site in
16 the State of Utah, for permanent dis-
17 position and any necessary stabiliza-
18 tion, of residual radioactive material
19 and other contaminated material from
20 the Moab Site and the floodplain of
21 the Colorado River.”.

22 (d) CONFORMING AMENDMENT.—Section 3406 of the
23 Strom Thurmond National Defense Authorization Act for
24 Fiscal Year 1999 (10 U.S.C. 7420 note; Public Law 105–

1 261) is amended by inserting after subsection (e) the fol-
 2 lowing:

3 “(f) OIL SHALE RESERVE NUMBERED 2.—This sec-
 4 tion does not apply to the transfer of Oil Shale Reserve
 5 Numbered 2 under section 3405.”.

6 **TITLE XXXIV—NATIONAL**
 7 **DEFENSE STOCKPILE**

8 **SEC. 3401. AUTHORIZED USES OF STOCKPILE FUNDS.**

9 (a) OBLIGATION OF STOCKPILE FUNDS.—During fis-
 10 cal year 2001, the National Defense Stockpile Manager
 11 may obligate up to \$75,000,000 of the funds in the Na-
 12 tional Defense Stockpile Transaction Fund established
 13 under subsection (a) of section 9 of the Strategic and Crit-
 14 ical Materials Stock Piling Act (50 U.S.C. 98h) for the
 15 authorized uses of such funds under subsection (b)(2) of
 16 such section, including the disposal of hazardous materials
 17 that are environmentally sensitive.

18 (b) ADDITIONAL OBLIGATIONS.—The National De-
 19 fense Stockpile Manager may obligate amounts in excess
 20 of the amount specified in subsection (a) if the National
 21 Defense Stockpile Manager notifies Congress that extraor-
 22 dinary or emergency conditions necessitate the additional
 23 obligations. The National Defense Stockpile Manager may
 24 make the additional obligations described in the notifica-

tion after the end of the 45-day period beginning on the date on which Congress receives the notification.

(c) LIMITATIONS.—The authorities provided by this section shall be subject to such limitations as may be provided in appropriations Acts.

SEC. 3402. INCREASED RECEIPTS UNDER PRIOR DISPOSAL AUTHORITY.

Section 3303(a) of the Strom Thurmond National Defense Authorization Act for Fiscal Year 1999 (Public Law 105–261; 1112 Stat. 2263; 50 U.S.C. 98d note) is amended—

(1) in paragraph (2), by striking “\$460,000,000” and inserting “\$409,000,000”;

(2) in paragraph (3), by striking “\$555,000,000” and inserting “\$585,000,000”; and

(3) in paragraph (4), by striking “\$590,000,000” and inserting “\$620,000,000”.

SEC. 3403. DISPOSAL OF TITANIUM.

(a) DISPOSAL REQUIRED.—Subject to subsection (b), the President shall, by September 30, 2010, dispose of 30,000 short tons of titanium contained in the National Defense Stockpile so as to result in receipts to the United States in a total amount that is not less than \$180,000,000.

1 (b) MINIMIZATION OF DISRUPTION AND LOSS.—The
2 President may not dispose of titanium under subsection
3 (a) to the extent that the disposal will result in—

4 (1) undue disruption of the usual markets of
5 producers, processors, and consumers of titanium; or

6 (2) avoidable loss to the United States.

7 (c) TREATMENT OF RECEIPTS.—Notwithstanding
8 section 9 of the Strategic and Critical Materials Stock Pil-
9 ing Act (50 U.S.C. 98h), funds received as a result of the
10 disposal of titanium under subsection (a) shall be applied
11 as follows: \$174,000,000 to defray the costs of health care
12 benefit improvements for retired military personnel; and
13 \$6,000,000 for transfer to the American Battle Monu-
14 ments Commission for deposit in the fund established
15 under section 2113 of title 36, United States Code, for
16 the World War II memorial authorized by section 1 of
17 Public Law 103–32 (107 Stat. 90).

18 (d) WORLD WAR II MEMORIAL.—(1) The amount
19 transferred to the American Battle Monuments Commis-
20 sion under subsection (c) shall be used to complete all nec-
21 essary requirements for the design of, ground breaking
22 for, construction of, maintenance of, and dedication of the
23 World War II memorial. The Commission shall determine
24 how the amount shall be apportioned among such pur-
25 poses.

1 (2) Any funds not necessary for the purposes set
 2 forth in paragraph (1) shall be transferred to and depos-
 3 ited in the general fund of the Treasury.

4 (e) RELATIONSHIP TO OTHER DISPOSAL AUTHOR-
 5 ITY.—The disposal authority provided in subsection (a) is
 6 new disposal authority and is in addition to, and shall not
 7 affect, any other disposal authority provided by law re-
 8 garding materials in the National Defense Stockpile.

9 **TITLE XXXV—ENERGY EMPLOY-**
 10 **EES OCCUPATIONAL ILLNESS**
 11 **COMPENSATION**

12 **SEC. 3501. SHORT TITLE.**

13 This title may be cited as the “Energy Employees
 14 Occupational Illness Compensation Act of 2000”.

15 **SEC. 3502. CONSTRUCTION WITH OTHER LAWS.**

16 References in this title to a provision of another stat-
 17 ute shall be considered as references to such provision, as
 18 amended and as may be amended from time to time.

19 **SEC. 3503. DEFINITIONS.**

20 (a) IN GENERAL.—In this title:

21 (1) ATOMIC WEAPON.—The term “atomic weap-
 22 on” has the meaning given that term in section 11d.
 23 of the Atomic Energy Act of 1954 (42 U.S.C.
 24 2014(d)).

1 (2) ATOMIC WEAPONS EMPLOYEE.—The term
2 “atomic weapons employee” means an individual em-
3 ployed by an atomic weapons employer during a time
4 when the employer was processing or producing, for
5 the use by the United States, material that emitted
6 radiation and was used in the production of an
7 atomic weapon, excluding uranium mining and mill-
8 ing.

9 (3) ATOMIC WEAPONS EMPLOYER.—The term
10 “atomic weapons employer” means an entity that—

11 (A) processed or produced, for the use by
12 the United States, material that emitted radi-
13 ation and was used in the production of an
14 atomic weapon, excluding uranium mining and
15 milling; and

16 (B) is designated as an atomic weapons
17 employer for purposes of this title by the Sec-
18 retary of Energy.

19 (4) ATOMIC WEAPONS EMPLOYER FACILITY.—
20 The term “atomic weapons employer facility” means
21 a facility, owned by an atomic weapons employer,
22 that is or was used to process or produce, for use
23 by the United States, material that emitted radi-
24 ation and was used in the production of an atomic
25 weapon, excluding uranium mining or milling.

1 (5) BERYLLIUM VENDOR.—The term “beryl-
2 lium vendor” means the following:

3 (A) Atomics International.

4 (B) Brush Wellman, Incorporated, and its
5 predecessor, Brush Beryllium Company.

6 (C) General Atomics.

7 (D) General Electric Company.

8 (E) NGK Metals Corporation and its pred-
9 ecessors, Kawecki-Berylco, Cabot Corporation,
10 BerylCo, and Beryllium Corporation of Amer-
11 ica.

12 (F) Nuclear Materials and Equipment Cor-
13 poration.

14 (G) StarMet Corporation, and its prede-
15 cessor, Nuclear Metals, Incorporated.

16 (H) Wyman Gordan, Incorporated.

17 (I) Any other vendor, processor, or pro-
18 ducer of beryllium or related products des-
19 ignated as a beryllium vendor for purposes of
20 this title under section 3504(a).

21 (6) CHRONIC SILICOSIS.—The term “chronic
22 silicosis” means silicosis if—

23 (A) at least 10 years elapse between initial
24 exposure to silica and the emergence of the sili-
25 cosis; and

1 (B) the silicosis is established by one of the
 2 following:

3 (i) A chest x-ray presenting any com-
 4 bination of rounded opacities of type
 5 p/q/r, with or without irregular opacities,
 6 present in at least both upper lung zones
 7 and of profusion 1/0 or greater, as found
 8 in accordance with the International Labor
 9 Organization classification system.

10 (ii) A physician's provisional or work-
 11 ing diagnosis of silicosis, combined with—

12 (I) a chest radiograph interpreted
 13 as consistent with silicosis; or

14 (II) pathologic findings con-
 15 sistent with silicosis.

16 (iii) A history of occupational expo-
 17 sure to airborne silica dust and a chest
 18 radiograph or other imaging technique in-
 19 terpreted as consistent with silicosis or
 20 pathologic findings consistent with silicosis.

21 (7) COMPENSATION.—The term “compensa-
 22 tion” means the money allowance payable under this
 23 title and any other benefits paid for from the Fund
 24 including the alternative compensation payable pur-
 25 suant to section 3515.

1 (8) COVERED BERYLLIUM EMPLOYEE.—The
2 term “covered beryllium employee” means the fol-
3 lowing:

4 (A) A current or former employee (as that
5 term is defined in section 8101(1) of title 5,
6 United States Code) who may have been ex-
7 posed to beryllium at a Department of Energy
8 facility or at a facility owned, operated, or occu-
9 pied by a beryllium vendor.

10 (B) A current or former employee of any
11 entity that contracted with the Department of
12 Energy to provide management and operation,
13 management and integration, or environmental
14 remediation of a Department of Energy facility
15 or an employee of any contractor or subcon-
16 tractor that provided services, including con-
17 struction and maintenance, at such a facility.

18 (C) A current or former employee of a be-
19 ryllium vendor, or a contractor or subcontractor
20 of a beryllium vendor, during a period when the
21 vendor was engaged in activities related to the
22 production or processing of beryllium for sale
23 to, or use by, the Department of Energy.

1 (9) COVERED BERYLLIUM ILLNESS.—The term
2 “covered beryllium illness” means any condition as
3 follows:

4 (A) Beryllium sensitivity as established
5 by—

6 (i) an abnormal beryllium lymphocyte
7 proliferation test performed on either blood
8 or lung lavage cells; or

9 (ii) other means specified under sec-
10 tion 3504(b).

11 (B) Chronic beryllium disease as estab-
12 lished by the following:

13 (i) For diagnoses on or after January
14 1, 1993—

15 (I) beryllium sensitivity, as estab-
16 lished in accordance with subpara-
17 graph (A); and

18 (II) lung pathology consistent
19 with chronic beryllium disease,
20 including—

21 (aa) a lung biopsy showing
22 granulomas or a lymphocytic
23 process consistent with chronic
24 beryllium disease;

1 (bb) a computerized axial to-
2 mography scan showing changes
3 consistent with chronic beryllium
4 disease; or

5 (cc) pulmonary function or
6 exercise testing showing pul-
7 monary deficits consistent with
8 chronic beryllium disease.

9 (ii) For diagnoses before January 1,
10 1993, the presence of four of the criteria
11 set forth in subclauses (I) through (VI),
12 including the criteria set forth in subclause
13 (I) and any three of the criteria set forth
14 in subclauses (II) through (VI):

15 (I) Occupational or environ-
16 mental history, or epidemiologic evi-
17 dence of beryllium exposure.

18 (II) Characteristic chest radio-
19 graphic (or computed tomography
20 (CT) abnormalities.

21 (III) Restrictive or obstructive
22 lung physiology testing or diffusing
23 lung capacity defect.

24 (IV) Lung pathology consistent
25 with chronic beryllium disease.

1 (V) Clinical course consistent
2 with a chronic respiratory disorder.

3 (VI) Immunologic tests showing
4 beryllium sensitivity (skin patch test
5 or beryllium blood test preferred).

6 (iii) Other means specified under sec-
7 tion 3504(b).

8 (C) Any injury, illness, impairment, or disability
9 sustained as a consequence of a covered beryllium
10 illness referred to in subparagraph (A) or (B).

11 (10) COVERED EMPLOYEE.—The term “covered
12 employee” means a covered beryllium employee, a
13 covered employee with cancer, or a covered employee
14 with chronic silicosis.

15 (11) COVERED EMPLOYEE WITH CANCER.—The
16 term “covered employee with cancer” means the fol-
17 lowing:

18 (A) An individual who meets the criteria in
19 section 3511(c)(1).

20 (B) A member of the Special Exposure Co-
21 hort.

22 (12) COVERED EMPLOYEE WITH CHRONIC SILI-
23 COSIS.—The term “covered employee with chronic
24 silicosis” means a—

25 (A) Department of Energy employee; or

1 (B) Department of Energy contractor em-
2 ployee;
3 with chronic silicosis who was exposed to silica in
4 the performance of duty as determined in section
5 3511(b).

6 (13) DEPARTMENT OF ENERGY.—The term
7 “Department of Energy” includes the predecessor
8 agencies of the Department of Energy, including the
9 Manhattan Engineering District.

10 (14) DEPARTMENT OF ENERGY CONTRACTOR
11 EMPLOYEE.—The term “Department of Energy con-
12 tractor employee” means the following:

13 (A) An individual who is or was in resi-
14 dence at a Department of Energy facility as a
15 researcher for a period of at least 24 cumu-
16 lative months.

17 (B) An individual who is or was employed,
18 at a Department of Energy facility by—

19 (i) an entity that contracted with the
20 Department of Energy to provide manage-
21 ment and operating, management and inte-
22 gration, or environmental remediation at
23 the facility; or

1 (ii) a contractor or subcontractor that
2 provided services, including construction
3 and maintenance, at the facility.

4 (15) DEPARTMENT OF ENERGY FACILITY.—The
5 term “Department of Energy facility” means any
6 building, structure, or premise, including the
7 grounds upon which such building, structure, or
8 premise is located—

9 (A) in which operations are, or have been,
10 conducted by, or on behalf of, the Department
11 of Energy (except for buildings, structures,
12 premises, grounds, or operations covered by Ex-
13 ecutive Order 12344, pertaining to the Naval
14 Nuclear Propulsion Program); and

15 (B) with regard to which the Department
16 of Energy has or had—

17 (i) a proprietary interest; or

18 (ii) entered into a contract with an
19 entity to provide management and oper-
20 ation, management and integration, envi-
21 ronmental remediation services, construc-
22 tion, or maintenance services.

23 (16) FUND.—The term “Fund” means the En-
24 ergy Employees’ Occupational Illness Compensation
25 Fund under section 3542 of this title.

1 (17) MONTHLY PAY.—The term “monthly pay”
2 means the monthly pay at the time of injury, or the
3 monthly pay at the time disability begins, or the
4 monthly pay at the time the compensable disability
5 recurs, if the recurrence begins more than 6 months
6 after the employee resumes regular full-time employ-
7 ment, whichever is greater, except when otherwise
8 determined under section 8113 of title 5, United
9 States Code.

10 (18) RADIATION.—The term “radiation” means
11 ionizing radiation in the form of—

12 (A) alpha particles;

13 (B) beta particles;

14 (C) neutrons;

15 (D) gamma rays; or

16 (E) accelerated ions or subatomic particles
17 from accelerator machines.

18 (19) SECRETARY OF HEALTH AND HUMAN
19 SERVICES.—The term “Secretary of Health and
20 Human Services” means the Secretary of Health
21 and Human Services with the assistance of the Di-
22 rector of the National Institute for Occupational
23 Safety and Health.

24 (20) SPECIAL EXPOSURE COHORT.—The term
25 “Special Exposure Cohort” means the following

1 groups of Department of Energy employees, Depart-
2 ment of Energy contractor employees, and atomic
3 weapons employees:

4 (A) Individuals who—

5 (i) were employed during the period
6 prior to February 1, 1992—

7 (I) at the gaseous diffusion
8 plants located in—

9 (aa) Paducah, Kentucky;

10 (bb) Portsmouth, Ohio; or

11 (cc) Oak Ridge, Tennessee;

12 and

13 (II) by—

14 (aa) the Department of En-
15 ergy;

16 (bb) a Department of En-
17 ergy contractor or subcontractor;

18 or

19 (cc) an atomic weapons em-
20 ployer; and

21 (ii) during employment covered by
22 clause (i)—

23 (I) were monitored through the
24 use of dosimetry badges for exposure

1 at the plant of the external parts of
 2 the employee's body to radiation; or

3 (II) worked in a job that had ex-
 4 posures comparable to a job that is or
 5 was monitored through the use of do-
 6 simetry badges.

7 (B) Individuals who were employed by the
 8 Department of Energy or a Department of En-
 9 ergy contractor or subcontractor on Amchitka
 10 Island, Alaska, prior to January 1, 1974, and
 11 who were exposed to ionizing radiation in the
 12 performance of duty related to the Long Shot,
 13 Milrow, or Cannikin underground nuclear tests.

14 (C) Individuals designated as part of the
 15 Special Exposure Cohort by the Secretary of
 16 Health and Human Services, in accordance
 17 with section 3513.

18 (21) SPECIFIED CANCER.—The term “specified
 19 cancer” means the following:

20 (A) Leukemia (other than chronic
 21 lymphocytic leukemia).

22 (B) Multiple myeloma.

23 (C) Non-Hodgkins Lymphoma.

24 (D) Cancer of the—

25 (i) bladder;

- 1 (ii) bone;
- 2 (iii) brain;
- 3 (iv) breast (male or female);
- 4 (v) cervix;
- 5 (vi) digestive system (including esoph-
- 6 agus, stomach, small intestine, bile ducts,
- 7 colon, rectum, or other digestive organs);
- 8 (vii) gallbladder;
- 9 (viii) kidney;
- 10 (ix) larynx, pharynx, or other res-
- 11 piratory organs;
- 12 (x) liver;
- 13 (xi) lung;
- 14 (xii) male genitalia;
- 15 (xiii) nasal organs;
- 16 (xiv) nervous system;
- 17 (xv) ovary;
- 18 (xvi) pancreas;
- 19 (xvii) prostate;
- 20 (xviii) salivary gland (parotid or non-
- 21 parotid);
- 22 (xix) thyroid;
- 23 (xx) ureter;
- 24 (xxi) urinary tract or other urinary
- 25 organs; or

1 (xxii) uterus.

2 (22) SURVIVOR.—The term “survivor” means
3 any individual or individuals eligible to receive com-
4 pensation pursuant to section 8133 of title 5, United
5 States Code.

6 (23) TIME OF INJURY.—The term “time of in-
7 jury” means—

8 (A) in regard to a claim arising out of ex-
9 posure to beryllium, the last date on which a
10 covered employee was exposed to beryllium in
11 the performance of duty in accordance with sec-
12 tion 3511(a);

13 (B) in regard to a claim arising out of
14 chronic silicosis, the last date on which a cov-
15 ered employee was exposed to silica in the per-
16 formance of duty in accordance with section
17 3511(b); and

18 (C) in regard to a claim arising out of ex-
19 posure to radiation, the last date on which a
20 covered employee was exposed to radiation in
21 the performance of duty in accordance with sec-
22 tion 3511(c)(1) or, in the case of a member of
23 the Special Exposure Cohort, the last date on
24 which the member of the Special Exposure Co-
25 hort was employed at the Department of En-

1 ergy facility at which the member was exposed
2 to radiation.

3 (b) TERMS USED IN ADMINISTRATION.—

4 (1) IN GENERAL.—The following terms have
5 the meaning given those terms in section 8101 of
6 title 5, United States Code—

7 (A) “physician”;

8 (B) “medical, surgical, and hospital serv-
9 ices and supplies”;

10 (C) “injury”;

11 (D) “widow”;

12 (E) “parent”;

13 (F) “brother”;

14 (G) “sister”;

15 (H) “child”;

16 (I) “grandchild”;

17 (J) “widower”;

18 (K) “student”;

19 (L) “price index”;

20 (M) “organ”; and

21 (N) “United States medical officers and
22 hospitals”.

23 (2) EMPLOYEE.—In applying any provision of
24 chapter 81 of title 5, United States Code (except

1 section 8101), under this title, the term “employee”
 2 in such provision shall mean a covered employee.

3 (3) EMPLOYEES’ COMPENSATION FUND.—In
 4 applying any provision of chapter 81 of title 5,
 5 United States Code, under this title, the term “Em-
 6 ployees’ Compensation Fund” in such provision shall
 7 mean the Fund.

8 **SEC. 3504. EXPANSION OF LIST OF BERYLLIUM VENDORS**
 9 **AND MEANS OF ESTABLISHING COVERED BE-**
 10 **RYLLIUM ILLNESSES.**

11 (a) BERYLLIUM VENDORS.—The Secretary of En-
 12 ergy may from time to time, and in consultation with the
 13 Secretary of Labor, designate as a beryllium vendor for
 14 purposes of section 3503(a)(5) any vendor, processor, or
 15 producer of beryllium or related products not previously
 16 listed under or designated for purposes of that section if
 17 the Secretary of Energy finds that such vendor, processor,
 18 or producer has been engaged in activities related to the
 19 production or processing of beryllium for sale to, or use
 20 by, the Department of Energy in a manner similar to the
 21 entities listed in that section.

22 (b) MEANS OF ESTABLISHING COVERED BERYLLIUM
 23 ILLNESSES.—The Secretary of Health and Human Serv-
 24 ices may from time to time, and in consultation with the
 25 Secretary of Energy, specify means of establishing the ex-

1 istence of a covered beryllium illness referred to in sub-
 2 paragraph (A) or (B) of section 3503(a)(9) not previously
 3 listed under or specified for purposes of such subpara-
 4 graph.

5 **Subtitle A—Beryllium, Silicosis,** 6 **and Radiation Compensation**

7 **SEC. 3511. EXPOSURE TO HAZARDS IN THE PERFORMANCE** 8 **OF DUTY.**

9 (a) BERYLLIUM.—In the absence of substantial evi-
 10 dence to the contrary, a covered beryllium employee shall
 11 be determined to have been exposed to beryllium in the
 12 performance of duty for the purposes of this title if, and
 13 only if, the covered beryllium employee was—

14 (1) employed at a Department of Energy facil-
 15 ity; or

16 (2) present at a Department of Energy facility,
 17 or a facility owned and operated by a beryllium ven-
 18 dor, because of employment by the United States, a
 19 beryllium vendor, or a contractor or subcontractor of
 20 the Department of Energy;

21 during a period when beryllium dust, particles, or vapor
 22 may have been present at such facility.

23 (b) CHRONIC SILICOSIS.—In the absence of substan-
 24 tial evidence to the contrary, a covered employee with
 25 chronic silicosis shall be determined to have been exposed

1 to silica in the performance of duty for the purposes of
2 this title if, and only if, the covered employee with chronic
3 silicosis was present during the mining of tunnels at a De-
4 partment of Energy facility for tests or experiments re-
5 lated to an atomic weapon.

6 (c) CANCER.—

7 (1) IN GENERAL.—A Department of Energy
8 employee, Department of Energy contractor em-
9 ployee, or an atomic weapons employee shall be de-
10 termined to have sustained a cancer in the perform-
11 ance of duty if, and only if, such employee—

12 (A) contracted cancer after beginning em-
13 ployment at a Department of Energy facility
14 for a Department of Energy contractor or an
15 atomic weapons employer facility for an atomic
16 weapons employer; and

17 (B) falls within guidelines that—

18 (i) are established by the Secretary of
19 Health and Human Services by regulation,
20 after consultation with the Secretary of
21 Energy and after technical review by the
22 Advisory Board under section 3512, for de-
23 termining whether the cancer the employee
24 contracted was at least as likely as not re-
25 lated to employment at the facility;

1 (ii) are based on the radiation dose
2 received by the employee (or a group of
3 employees performing similar work) at the
4 facility and the upper 99 percent con-
5 fidence interval of the probability of causa-
6 tion in the radioepidemiological tables pub-
7 lished under section 7(b) of the Orphan
8 Drug Act (42 U.S.C. 241 note), as such
9 tables may be updated under section
10 7(b)(3) of such Act from time to time;

11 (iii) incorporate the methods estab-
12 lished under subsection (d); and

13 (iv) take into consideration the type of
14 cancer; past health-related activities, such
15 as smoking; information on the risk of de-
16 veloping a radiation-related cancer from
17 workplace exposure; and other relevant fac-
18 tors.

19 (2) SPECIAL EXPOSURE COHORT.—A member
20 of the Special Exposure Cohort shall be determined
21 to have sustained a cancer in the performance of
22 duty if, and only if, such individual contracted a
23 specified cancer after beginning employment at a
24 Department of Energy facility for a Department of

1 Energy contractor or an atomic weapons employer
2 facility for an atomic weapons employer.

3 (d) RADIATION DOSE.—

4 (1) IN GENERAL.—The Secretary of Health and
5 Human Services, after consultation with the Sec-
6 retary of Energy, shall—

7 (A) establish by regulation methods for ar-
8 riving at reasonable estimates of the radiation
9 doses Department of Energy employees or De-
10 partment of Energy contractor employees re-
11 ceived at a Department of Energy facility and
12 atomic weapons employees received at a facility
13 operated by an atomic weapons employer if
14 such employees were not monitored for expo-
15 sure to radiation at the facility, or were mon-
16 itored inadequately, or if the employees' expo-
17 sure records are missing or incomplete; and

18 (B) provide to an employee who meets the
19 requirements of subsection (c)(1)(B) an esti-
20 mate of the radiation dose the employee re-
21 ceived based on dosimetry reading, a method es-
22 tablished under subparagraph (A), or a com-
23 bination of both.

24 (2) SCIENTIFIC REVIEW.—The Secretary of
25 Health and Human Services shall establish an inde-

pendent review process utilizing the Advisory Board under section 3512 to assess the methods established under paragraph (1)(A) and the application of those methods and to verify a reasonable sample of individual dose reconstructions provided under paragraph (1)(B).

(3) ACCESS TO DOSE RECONSTRUCTIONS.—The Secretary of Health and Human Services and the Secretary of Energy each shall, consistent with the protection of private medical records, make available to researchers and the general public information on the assumptions, methodology, and data used in dose reconstructions undertaken under this subtitle.

SEC. 3512. ADVISORY BOARD ON RADIATION AND WORKER HEALTH.

(a) ESTABLISHMENT.—

(1) IN GENERAL.—Not later than 120 days after the date of enactment of this title, the Secretary of Health and Human Services, in consultation with the Secretary of Energy, shall establish and appoint an Advisory Board on Radiation and Worker Health.

(2) BALANCE OF VIEWS.—In making appointments to the Board, the Secretary of Health and Human Services shall also consult with labor unions

1 and other organizations with expertise on worker
2 health issues to ensure that the membership of the
3 Board reflects a balance of scientific, medical, and
4 worker perspectives.

5 (3) CHAIR.—The Secretary of Health and
6 Human Services shall designate a Chair for the
7 Board from among its members.

8 (b) DUTIES.—The Board shall advise the Secretary
9 of Health and Human Services, Secretary of Energy, and
10 Secretary of Labor on—

11 (1) the development of guidelines to be used by
12 the Secretary of Health and Human Services under
13 section 3511;

14 (2) the scientific validity and quality of dose es-
15 timation and reconstruction efforts being performed
16 to implement compensation programs under this
17 subtitle; and

18 (3) other matters related to radiation and work-
19 er health in Department of Energy facilities as the
20 Secretary of Labor, the Secretary of Energy, or the
21 Secretary of Health and Human Services may re-
22 quest.

23 (c) STAFF.—

24 (1) IN GENERAL.—The Secretary of Health and
25 Human Services shall appoint a staff to facilitate

1 the work of the Board, headed by a Director ap-
2 pointed under subchapter VIII of chapter 33 of title
3 5, United States Code.

4 (2) DETAILS.—The Secretary of Health and
5 Human Services may accept for staff of the Board
6 personnel on detail from other Federal agencies to
7 serve on the staff on a nonreimbursable basis.

8 (d) EXPENSES.—Members of the Board, other than
9 full-time employees of the Federal Government, while at-
10 tending meetings of the Board or while otherwise serving
11 at the request of the Secretary of Health and Human
12 Services while serving away from their homes or regular
13 places of business, may be allowed travel and meal ex-
14 penses, including per diem in lieu of subsistence, as au-
15 thorized by section 5703 of title 5, United States Code,
16 for individuals in the Government serving without pay.

17 (e) APPLICABILITY OF FACA.—The Advisory Board
18 shall be subject to the Federal Advisory Committee Act
19 (5 U.S.C. App.).

20 **SEC. 3513. DESIGNATION OF ADDITIONAL MEMBERS OF**
21 **THE SPECIAL EXPOSURE COHORT.**

22 (a) ADVICE ON MEMBERSHIP IN COHORT.—

23 (1) IN GENERAL.—Upon request of the Sec-
24 retary of Health and Human Services, the Advisory
25 Board on Radiation and Worker Health under sec-

1 tion 3512, based on exposure assessments by radi-
2 ation health professionals, information provided by
3 the Department of Energy, and other information
4 deemed appropriate by the Board, shall advise the
5 Secretary of Health and Human Services whether
6 there is a class of employees at a Department of En-
7 ergy facility who likely were exposed to radiation at
8 the facility but for whom it is not feasible to esti-
9 mate with sufficient accuracy the radiation dose they
10 received.

11 (2) PROCEDURES.—The Secretary of Health
12 and Human Services shall establish procedures for
13 considering petitions by classes of employees to re-
14 quest the advice of the Board.

15 (b) TREATMENT AS MEMBERS OF COHORT.—A class
16 of employees at a Department of Energy facility shall be
17 considered as members of the Special Exposure Cohort for
18 purposes of section 3503(a)(20) if the Secretary of Health
19 and Human Services, upon recommendation of the Advi-
20 sory Board on Radiation and Worker Health and in con-
21 sultation with the Secretary of Energy, determines that—

22 (1) it is not feasible to estimate with sufficient
23 accuracy the radiation dose which the class received;
24 and

1 (2) there is a reasonable likelihood that the ra-
 2 diation dose may have endangered the health of
 3 members of the class.

4 (c) ACCESS TO INFORMATION.—The Secretary of En-
 5 ergy shall, in accordance with law, provide the Secretary
 6 of Health and Human Services and the members and staff
 7 of the Advisory Board under section 3512 access to rel-
 8 evant information on worker exposures, including access
 9 to Restricted Data (as that term is defined in section 11y.
 10 of the Atomic Energy Act of 1954 (42 U.S.C. 2014(y)).

11 **SEC. 3514. AUTHORITY TO PROVIDE COMPENSATION AND**
 12 **OTHER ASSISTANCE.**

13 (a) COMPENSATION.—Subject to the provisions of
 14 this title, the Secretary of Labor—

15 (1) shall pay compensation in accordance with
 16 sections 8105 through 8110, 8111(a), 8112, 8113,
 17 8115, 8117, 8133, 8134, 8146a(a), and 8146a(b) of
 18 title 5, United States Code, for the disability or
 19 death—

20 (A) from a covered beryllium illness of a
 21 covered beryllium employee who was exposed to
 22 beryllium while in the performance of duty as
 23 determined in accordance with section 3511(a)
 24 of this title;

1 (B) from chronic silicosis of a covered em-
2 ployee with chronic silicosis who was exposed to
3 silica in the performance of duty as determined
4 in accordance with section 3511(b) of this title;
5 or

6 (C) from cancer of a covered employee
7 with cancer determined to have sustained that
8 cancer in the performance of duty in accordance
9 with section 3511(c) of this title or from any
10 injury suffered as a consequence of that cancer;

11 (2) shall furnish the services and other benefits
12 specified in section 8103 of title 5, United States
13 Code, to—

14 (A) a covered beryllium employee with a
15 covered beryllium illness who was exposed to be-
16 ryllium in the performance of duty as deter-
17 mined in accordance with section 3511(a) of
18 this title;

19 (B) a covered employee with chronic sili-
20 cosis who was exposed to silica in the perform-
21 ance of duty as determined in accordance with
22 section 3511(b) of this title; or

23 (C) a covered employee with cancer deter-
24 mined to have sustained that cancer in the per-
25 formance of duty in accordance with section

1 3511(c) of this title or to have suffered any in-
 2 jury as a consequence of that cancer; and

3 (3) may direct a permanently disabled indi-
 4 vidual whose disability is compensable under this
 5 subtitle to undergo vocational rehabilitation and
 6 shall provide for furnishing such vocational rehabili-
 7 tation services pursuant to the provisions of sections
 8 8104, 8111(b), and 8113(b) of title 5, United States
 9 Code.

10 (b) LIMITATIONS ON COMPENSATION.—

11 (1) EMPLOYEE MISCONDUCT.—No compensa-
 12 tion or benefits may be paid or provided under this
 13 title for a cancer (including a specified cancer),
 14 chronic silicosis, covered beryllium illness, or death
 15 if the cancer (including a specified cancer), chronic
 16 silicosis, covered beryllium illness, or death occurred
 17 under one of the circumstances set forth in para-
 18 graph (1), (2), or (3) of section 8102(a) of title 5,
 19 United States Code.

20 (2) RETROACTIVE BENEFITS.—No compensa-
 21 tion may be paid under this section for any period
 22 before the date of enactment of this title, except in
 23 the case of compensation under section 3515.

24 (3) SOURCE.—All compensation under this sub-
 25 title shall be paid from the Fund.

1 (c) COMPUTATION OF PAY.—

2 (1) IN GENERAL.—Except as otherwise pro-
3 vided by this title or by regulation, computation of
4 pay under this title shall be determined in accord-
5 ance with section 8114 of title 5, United States
6 Code.

7 (2) SUBSTITUTE RULE FOR SECTION
8 8114(d)(3).—If either of the methods of determining
9 the average annual earnings specified in section
10 8114(d) (1) and (2) of title 5, United States Code,
11 cannot be applied reasonably and fairly, the average
12 annual earnings are a sum that reasonably rep-
13 represents the annual earning capacity of the covered
14 employee in the employment in which the employee
15 was working at the time of injury having regard to
16 the previous earnings of the employee in similar em-
17 ployment, and of other employees of the same em-
18 ployer in the same or most similar class working in
19 the same or most similar employment in the same or
20 neighboring location, other previous employment of
21 the employee, or other relevant factors. However, the
22 average annual earnings may not be less than 150
23 times the average daily wage the covered employee
24 earned in the employment during the days employed

1 within 1 year immediately preceding the time of in-
2 jury.

3 (d) ASSISTANCE FOR CLAIMANTS.—The Secretary of
4 Labor shall, upon the receipt of a request for assistance
5 from a claimant for compensation under this section, pro-
6 vide assistance to the claimant in connection with the
7 claim, including—

8 (1) assistance in securing medical testing and
9 diagnostic services necessary to establish the exist-
10 ence of a covered beryllium illness or cancer; and

11 (2) such other assistance as may be required to
12 develop facts pertinent to the claim.

13 (e) ASSISTANCE FOR POTENTIAL CLAIMANTS.—The
14 Secretary of Energy, in consultation with the Secretary
15 of Labor, shall take appropriate actions to inform and as-
16 sist covered employees who are potential claimants under
17 this subtitle, and other potential claimants under this sub-
18 title, of the availability of compensation under this sub-
19 title, including actions to—

20 (1) ensure the ready availability, in paper and
21 electronic format, of forms necessary for making
22 claims;

23 (2) provide such covered employees and other
24 potential claimants with information and other sup-
25 port necessary for making claims, including—

1 (A) medical protocols for medical testing
 2 and diagnosis to establish the existence of a
 3 covered beryllium illness, silicosis, or cancer;
 4 and

5 (B) lists of vendors approved for providing
 6 laboratory services related to such medical test-
 7 ing and diagnosis;

8 (3) provide such additional assistance to such
 9 covered employees and other potential claimants as
 10 may be required for the development of facts perti-
 11 nent to a claim.

12 (f) INFORMATION FROM BERYLLIUM VENDORS AND
 13 OTHER CONTRACTORS.—As part of the assistance pro-
 14 gram provided under subsections (d) and (e), and as per-
 15 mitted by law, the Secretary of Energy shall, upon the
 16 request of the Secretary of Labor, require a beryllium ven-
 17 dor or other Department of Energy contractor or subcon-
 18 tractor to provide information relevant to a claim or poten-
 19 tial claim under this title to the Secretary of Labor.

20 **SEC. 3515. ALTERNATIVE COMPENSATION.**

21 (a) IN GENERAL.—Subject to the provisions of this
 22 section, a covered employee eligible for benefits under sec-
 23 tion 3514(a), or the survivor of such covered employee if
 24 the employee is deceased, may elect to receive compensa-

1 tion in the amount of \$200,000 in lieu of any other com-
2 pensation under section 3514(a)(1).

3 (b) DEATH BEFORE ELECTION.—

4 (1) IN GENERAL.—Subject to the provisions of
5 this section, if a covered employee otherwise eligible
6 to make an election provided by this section dies be-
7 fore the date of enactment of this title, or before
8 making the election, whether or not the death is a
9 result of a cancer (including a specified cancer),
10 chronic silicosis, or covered beryllium illness, a sur-
11 vivor of the covered employee on behalf of the sur-
12 vivor and any other survivors of the covered em-
13 ployee may make the election and receive the com-
14 pensation provided for under this section.

15 (2) PRECEDENCE OF SURVIVORS.—The right to
16 make an election and to receive compensation under
17 this section shall be afforded to survivors in the
18 order of precedence set forth in section 8109 of title
19 5, United States Code.

20 (c) TIME LIMIT FOR ELECTION.—An election under
21 this section may be made at any time after the submittal
22 under this subtitle of the claim on which such compensa-
23 tion is based, but not later than 30 days after the latter
24 of the date of—

1 (1) a determination by the Secretary of Labor
2 that an employee is eligible for an award under this
3 section; or

4 (2) a determination by the Secretary of Labor
5 under section 3214 awarding an employee or an em-
6 ployee's survivors compensation for total or partial
7 disability or compensation in case of death.

8 (d) IRREVOCABILITY OF ELECTION.—

9 (1) IN GENERAL.—An election under this sec-
10 tion when made is irrevocable.

11 (2) BINDING EFFECT.—An election made by a
12 covered employee or survivor under this section is
13 binding on all survivors of the covered employee.

14 **SEC. 3516. SUBMITTAL OF CLAIMS.**

15 (a) CLAIM REQUIRED.—A claim for compensation
16 under this subtitle shall be submitted to the Secretary of
17 Labor in the manner specified in section 8121 of title 5,
18 United States Code.

19 (b) GENERAL TIME LIMITATIONS.—A claim for com-
20 pensation under this subtitle shall be filed under this sec-
21 tion not later than the later of—

22 (1) seven years after the date of enactment of
23 this title;

24 (2) seven years after the date the claimant first
25 becomes aware that a cancer (including a specified

1 cancer), chronic silicosis, covered beryllium illness,
 2 or death from any of the foregoing of a covered em-
 3 ployee may be connected to the exposure of the cov-
 4 ered employee to beryllium, radiation, or silica in the
 5 performance of duty.

6 (c) NEW PERIOD FOR ADDITIONAL ILLNESSES AND
 7 CONDITIONS.—A new period of limitation under sub-
 8 section (b)(2) shall commence with each new diagnosis of
 9 a cancer (including a specified cancer), chronic silicosis,
 10 or covered beryllium illness that is different from a pre-
 11 viously diagnosed cancer (including a specified cancer),
 12 chronic silicosis, or covered beryllium illness.

13 (d) DEATH CLAIM.—The timely filing of a disability
 14 claim for a cancer (including a specified cancer), chronic
 15 silicosis, or covered beryllium illness shall satisfy the time
 16 requirements of this section for death benefits for the
 17 same cancer (including a specified cancer), chronic sili-
 18 cosis, or covered beryllium illness.

19 **SEC. 3517. ADJUDICATION AND ADMINISTRATION.**

20 (a) IN GENERAL.—

21 (1) REQUIREMENT.—The Secretary of Labor
 22 shall determine and make a finding of fact and
 23 make an award for or against payment of compensa-
 24 tion under this subtitle after—

1 (A) considering the claim presented by the
2 claimant, the results of any medical test or di-
3 agnosis undertaken to establish the existence of
4 a cancer (including a specified cancer), chronic
5 silicosis, or covered beryllium illness, and any
6 report furnished by the Secretary of Energy
7 with respect to the claim; and

8 (B) completing such investigation as the
9 Secretary of Labor considers necessary.

10 (2) SCOPE OF ALLOWANCE AND DENIAL.—The
11 Secretary may allow or deny a claim, in whole or in
12 part.

13 (b) AVAILABLE AUTHORITIES.—

14 (1) IN GENERAL.—Except as provided in para-
15 graph (2), in carrying out activities under subsection
16 (c), the Secretary of Labor may utilize the authori-
17 ties available to the Secretary under sections 8123,
18 8124(b), 8125, 8126, 8128(a), and 8129 of title 5,
19 United States Code.

20 (2) DISAGREEMENT.—If there is a disagree-
21 ment under section 8123(a) of title 5, United States
22 Code, between the physician making the examination
23 for the United States and the physician of the em-
24 ployee, the Secretary of Labor shall appoint a third
25 physician from a roster of physicians with relevant

1 expertise maintained by the Secretary of Health and
2 Human Services.

3 (c) RIGHTS OF CLAIMANT.—

4 (1) IN GENERAL.—Except as provided by para-
5 graph (2), the provisions of section 8127 of title 5,
6 United States Code, shall apply.

7 (2) SUITS TO COMPEL INFORMATION.—A claim-
8 ant may commence an action in the appropriate dis-
9 trict court of the United States against a beryllium
10 vendor, or other contractor or subcontractor of the
11 Department of Energy, to compel the production of
12 information or documents requested by the Sec-
13 retary of Labor under this subtitle if such informa-
14 tion or documents are not provided within 180 days
15 of the date of the request. Upon successful resolu-
16 tion of any action brought under this paragraph, the
17 court shall award the claimant reasonable attorney
18 fees and costs to be paid by the defendant in such
19 action.

20 (d) DEADLINES.—Beginning on the date that is two
21 years after the date of enactment of this title, the Sec-
22 retary of Labor shall allow or deny a claim under this sec-
23 tion not later than the later of—

24 (1) 180 days after the date of submittal of the
25 claim to the Secretary under section 3516; or

1 (2) 120 days after the date of receipt of infor-
2 mation or documents produced under subsection
3 (c)(2).

4 (e) RESOLUTION OF REASONABLE DOUBT.—Except
5 as provided in subsection (b)(2), in determining whether
6 a claimant meets the requirements of this subtitle, the
7 Secretary of Labor shall find in favor of the claimant in
8 circumstances where the evidence supporting the claim of
9 the claimant and the evidence controverting the claim of
10 the claimant is in equipoise.

11 (f) SERVICE OF DECISION.—The Secretary of Labor
12 shall have served upon a claimant the Secretary's decision
13 denying the claim under this section, including the finding
14 of fact under subsection (a)(1).

15 (g) HEARINGS AND FURTHER REVIEW.—

16 (1) REGULATIONS.—The Secretary of Labor
17 may prescribe regulations necessary for the adminis-
18 tration and enforcement of this title including regu-
19 lations for the conduct of hearings under this sec-
20 tion.

21 (2) APPEALS PANELS.—

22 (A) IN GENERAL.—Regulations issued by
23 the Secretary of Labor under this title shall
24 provide for one or more Energy Employees'
25 Compensation Appeals Panels of three individ-

1 uals with authority to hear and, subject to ap-
2 plicable law and the regulations of the Sec-
3 retary, make final decisions on appeals taken
4 from determinations and awards with respect to
5 claims of employees filed under this subtitle.

6 (B) INTERAGENCY AGREEMENT.—Under
7 an agreement between the Secretary of Labor
8 and another Federal agency (except the Depart-
9 ment of Energy), a panel appointed by the
10 other Federal agency may provide these appel-
11 late decisionmaking services.

12 (3) APPEAL.—An individual seeking review of a
13 denial of an award under this section shall submit
14 an appeal in accordance with the regulations under
15 this subsection.

16 (h) RECONSIDERATION BASED ON NEW CRITERIA OR
17 EVIDENCE.—

18 (1) NEW CRITERIA OR METHODS FOR ESTAB-
19 LISHING WORK-RELATED ILLNESS.—A claimant may
20 obtain reconsideration of a decision awarding or de-
21 nying coverage under this subtitle within one year
22 after the effective date of regulations setting forth—

23 (A) new criteria for establishing a covered
24 beryllium illness pursuant to section 3504(b);
25 or

1 (B) additional or revised methods for de-
 2 termining whether a cancer was at least as like-
 3 ly as not related to employment pursuant to
 4 section 3211(c)(1)(B)(i);
 5 by submitting evidence that is relevant and pertinent
 6 to the new regulations.

7 (2) NEW EVIDENCE.—A covered employee or
 8 covered employee’s survivor may obtain reconsider-
 9 ation of a decision denying an application for com-
 10 pensation or benefits under this title if the employee
 11 or employee’s survivor has additional medical or
 12 other information relevant to the claim that was not
 13 reasonably available at the time of the decision and
 14 that likely would lead to the reversal of the decision.

15 **Subtitle B—Exposure to Other** 16 **Toxic Substances**

17 **SEC. 3521. DEFINITIONS.**

18 In this subtitle:

19 (1) DIRECTOR.—The term “Director” means
 20 the Director of the Office of Workers’ Compensation
 21 Advocate under section 217 of the Department of
 22 Energy Organization Act, as added by section 3538
 23 of this Act.

24 (2) PANEL.—The term “panel” means a physi-
 25 cians panel established under section 3522(d).

1 (3) SECRETARY.—The term “Secretary” means
2 the Secretary of Energy.

3 **SEC. 3522. AGREEMENTS WITH STATES.**

4 (a) AGREEMENTS.—The Secretary, through the Di-
5 rector, may enter into agreements with the Governor of
6 a State to provide assistance to a Department of Energy
7 contractor employee in filing a claim under the appro-
8 priate State workers’ compensation system.

9 (b) PROCEDURE.—Pursuant to agreements under
10 subsection (a), the Director may—

11 (1) establish procedures under which an indi-
12 vidual may submit an application for review and as-
13 sistance under this section, and

14 (2) review an application submitted under this
15 section and determine whether the applicant sub-
16 mitted reasonable evidence that—

17 (A) the application was filed by or on be-
18 half of a Department of Energy contractor em-
19 ployee or employee’s estate, and

20 (B) the illness or death of the Department
21 of Energy contractor employee may have been
22 related to employment at a Department of En-
23 ergy facility.

24 (c) SUBMITTAL OF APPLICATIONS TO PANELS.—If
25 provided in an agreement under subsection (a), and if the

1 Director determines that the applicant submitted reason-
2 able evidence under subsection (b)(2), the Director shall
3 submit the application to a physicians panel established
4 under subsection (d). The Director shall assist the em-
5 ployee in obtaining additional evidence within the control
6 of the Department of Energy and relevant to the panel's
7 deliberations.

8 (d) PANEL.—

9 (1) NUMBER OF PANELS.—The Director shall
10 inform the Secretary of Health and Human Services
11 of the number of physicians panels the Director has
12 determined to be appropriate to administer this sec-
13 tion, the number of physicians needed for each
14 panel, and the area of jurisdiction of each panel.
15 The Director may determine to have only one panel.

16 (2) APPOINTMENT.—

17 (A) IN GENERAL.—The Secretary of
18 Health and Human Services shall appoint panel
19 members with experience and competency in di-
20 agnosing occupational illnesses under section
21 3109 of title 5, United States Code.

22 (B) COMPENSATION.—Each member of a
23 panel shall be paid at the rate of pay payable
24 for level III of the Executive Schedule for each

1 day (including travel time) the member is en-
2 gaged in the work of a panel.

3 (3) DUTIES.—A panel shall review an applica-
4 tion submitted to it by the Director and determine,
5 under guidelines established by the Director, by rule,
6 whether the illness or death that is the subject of
7 the application arose out of and in the course of em-
8 ployment by the Department of Energy and expo-
9 sure to a toxic substance at a Department of Energy
10 facility.

11 (4) ADDITIONAL INFORMATION.—At the re-
12 quest of a panel, the Director and a contractor who
13 employed a Department of Energy contractor em-
14 ployee shall provide additional information relevant
15 to the panel's deliberations. A panel may consult
16 specialists in relevant fields as it determines nec-
17 essary.

18 (5) DETERMINATIONS.—Once a panel has made
19 a determination under paragraph (3), it shall report
20 to the Director its determination and the basis for
21 the determination.

22 (6) INAPPLICABILITY OF FACA.—A panel es-
23 tablished under this section shall not be subject to
24 the Federal Advisory Committee Act (5 U.S.C.
25 App.).

1 (e) ASSISTANCE.—If provided in an agreement under
2 subsection (a)—

3 (1) the Director shall review a panel's deter-
4 mination made under subsection (d), information the
5 panel considered in reaching its determination, any
6 relevant new information not reasonably available at
7 the time of the panel's deliberations, and the basis
8 for the panel's determination;

9 (2) as a result of the review under paragraph
10 (1), the Director shall accept the panel's determina-
11 tion in the absence of compelling evidence to the
12 contrary;

13 (3) if the panel has made a positive determina-
14 tion under subsection (d) and the Director accepts
15 the determination under paragraph (2), or the panel
16 has made a negative determination under subsection
17 (d) and the Director finds compelling evidence to the
18 contrary—

19 (A) the Director shall—

20 (i) assist the applicant to file a claim
21 under the appropriate State workers' com-
22 pensation system based on the health con-
23 dition that was the subject of the deter-
24 mination;

1 (ii) recommend to the Secretary of
2 Energy that the Department of Energy not
3 contest a claim filed under a State work-
4 ers' compensation system based on the
5 health condition that was the subject of
6 the determination and not contest an
7 award made under a State workers' com-
8 pensation system regarding that claim; and

9 (iii) recommend to the Secretary of
10 Energy that the Secretary direct, as per-
11 mitted by law, the contractor who em-
12 ployed the Department of Energy con-
13 tractor employee who is the subject of the
14 claim not to contest the claim or an award
15 regarding the claim; and

16 (B) any costs of contesting a claim or an
17 award regarding the claim incurred by the con-
18 tractor who employed the Department of En-
19 ergy contractor employee who is the subject of
20 the claim shall not be an allowable cost under
21 a Department of Energy contract.

22 (f) INFORMATION.—At the request of the Director,
23 a contractor who employed a Department of Energy con-
24 tractor employee shall make available to the Director or

1 the employee, information relevant to deliberations under
2 this section.

3 (g) GAO REPORT.—Not later than February 1,
4 2002, the Comptroller General shall submit a report to
5 the Congress evaluating the implementation by the De-
6 partment of Energy of the provisions of this subtitle and
7 of the effectiveness of the program under this subtitle in
8 providing compensation to Department of Energy con-
9 tractor employees for occupational illness.

10 **Subtitle C—General Provisions**

11 **SEC. 3531. TREATMENT OF COMPENSATION AND BENEFITS.**

12 (a) IN GENERAL.—Any compensation or benefits al-
13 lowed, paid, or provided under this title—

14 (1) shall not be included as income or resources
15 for purposes of determining eligibility to receive ben-
16 efits described in section 3803(c)(2)(C) of title 31,
17 United States Code, or the amount of those benefits;
18 and

19 (2) shall not be subject to offset under chapter
20 37 of title 31, United States Code.

21 (b) INSURANCE.—(1) Compensation or benefits paid
22 or provided under this title shall not be considered as any
23 form of compensation or reimbursement for a loss for pur-
24 poses of imposing liability on an individual receiving the

1 compensation or benefits to repay any insurance carrier
2 for insurance payments made.

3 (2) The payment or provision of compensation or ben-
4 efits under this title shall not be treated as affecting any
5 claim against an insurance carrier with respect to insur-
6 ance.

7 (c) PROHIBITION ON ASSIGNMENT OR ATTACHMENT
8 OF CLAIMS.—The provisions of section 8130 of title 5,
9 United States Code, shall apply to claims under this title.

10 (d) RETENTION OF CIVIL SERVICE RIGHTS.—If a
11 Federal employee found to be disabled under this title re-
12 sumes employment with the Federal Government, the em-
13 ployee shall be entitled to the rights set forth in section
14 8151 of title 5, United States Code.

15 **SEC. 3532. FORFEITURE OF BENEFITS BY CONVICTED FEL-**
16 **ONS.**

17 (a) FORFEIT COMPENSATION.—Any individual con-
18 victed of a violation of section 1920 of title 18, United
19 States Code, or any other Federal or State criminal stat-
20 ute relating to fraud in the application for or receipt of
21 any benefit under this title or under any other Federal
22 or State workers' compensation law, shall forfeit (as of
23 the date of such conviction) any entitlement to any benefit
24 under this title such individual would otherwise be award-
25 ed for any injury, illness or death covered by this title for

1 which the time of injury was on or before the date of the
2 conviction. This forfeiture shall be in addition to any ac-
3 tion the Secretary of Labor takes under sections 8106 or
4 8129 of title 5, United States Code.

5 (b) DEPENDENTS.—(1) Notwithstanding any other
6 provision of law, except as provided under paragraph (2),
7 compensation under this title shall not be paid or provided
8 to an individual during any period during which such indi-
9 vidual is confined in a jail, prison, or other penal institu-
10 tion or correctional facility, pursuant to that individual's
11 conviction of an offense that constituted a felony under
12 applicable law. After this period of incarceration ends, the
13 individual shall not receive compensation forfeited during
14 the period of incarceration.

15 (2) If an individual has one or more dependents as
16 defined under section 8110(a) of title 5, United States
17 Code, the Secretary of Labor may, during the period of
18 incarceration, pay to such dependents a percentage of the
19 compensation under section 3114 that would have been
20 payable to the individual computed according to the per-
21 centages set forth in section 8133(a) (1) through (5) of
22 title 5, United States Code.

23 (c) INFORMATION.—Notwithstanding section 552a of
24 title 5, United States Code, or any other Federal or State
25 law, an agency of the United States, a State, or a political

1 subdivision of a State shall make available to the Sec-
2 retary of Labor, upon written request from the Secretary
3 of Labor and if the Secretary of Labor requires the infor-
4 mation to carry out this section, the names and Social Se-
5 curity account numbers of individuals confined, for convic-
6 tion of a felony, in a jail, prison, or other penal institution
7 or correctional facility under the jurisdiction of that agen-
8 cy.

9 **SEC. 3533. LIMITATION ON RIGHT TO RECEIVE BENEFITS.**

10 (a) CLAIMANT.—A claimant who receives compensa-
11 tion for any claim under this title, except for compensation
12 provided under the authority of section 8103(b) of title
13 5, United States Code, shall not receive compensation for
14 any other claim under this title.

15 (b) SURVIVOR.—If a survivor receives compensation
16 for any claim under this title derived from a covered em-
17 ployee, except for compensation provided under the au-
18 thority of section 8103(b) of title 5, United States Code,
19 such survivor shall not receive compensation for any other
20 claim under this title derived from the same covered em-
21 ployee. A survivor of a claimant who receives compensa-
22 tion for any claim under this title, except for compensation
23 provided under the authority of section 8103(b) of title
24 5, United States Code, shall not receive compensation for

1 any other claim under this title derived from the same cov-
 2 ered employee.

3 (c) WIDOW OR WIDOWER.—A widow or widower who
 4 is eligible for benefits under this title derived from more
 5 than one husband or wife shall elect one benefit to receive.

6 **SEC. 3534. COORDINATION OF BENEFITS—STATE WORKERS’**
 7 **COMPENSATION.**

8 (a) IN GENERAL.—An individual who is eligible to
 9 receive compensation under this title because of a cancer
 10 (including a specified cancer), chronic silicosis, covered be-
 11 ryllium illness, or death and who is also entitled to receive
 12 benefits because of the same cancer (including a specified
 13 cancer), chronic silicosis, covered beryllium illness, or
 14 death from a State workers’ compensation system shall
 15 elect which such benefits to receive, unless—

16 (1) at the time of injury, workers’ compensation
 17 coverage for the employee was secured by a policy or
 18 contract of insurance; and

19 (2) the Secretary of Labor waives the require-
 20 ment to make such an election.

21 (b) ELECTION.—The individual shall make the elec-
 22 tion within the time allowed by the Secretary of Labor.
 23 The election when made is irrevocable and binding on all
 24 survivors of that individual.

1 (c) COORDINATION.—Except as provided in para-
2 graph (d), an individual who has been awarded compensa-
3 tion under this title and who also has received benefits
4 from a State workers' compensation system because of the
5 same cancer (including a specified cancer), chronic sili-
6 cosis, covered beryllium illness, or death, shall receive com-
7 pensation as specified under this title reduced by the
8 amount of any workers' compensation benefits that the in-
9 dividual has received under the State workers' compensa-
10 tion system as a result of the cancer (including a specified
11 cancer), chronic silicosis, covered beryllium illness, or
12 death attributable to the period subsequent to the effective
13 date of this title, after deducting the reasonable costs, as
14 determined by the Secretary of Labor, of obtaining bene-
15 fits under the State workers' compensation system.

16 (d) WAIVER.—An individual described in paragraph
17 (a) who has also received, under paragraph (a)(2), a waiv-
18 er of the requirement to elect between compensation under
19 this title and benefits under a State workers' compensa-
20 tion system shall receive compensation as specified in this
21 title for the cancer (including a specified cancer), chronic
22 silicosis, covered beryllium illness, or death, reduced by 80
23 percent of the net amount of any workers' compensation
24 benefits that the claimant has received under a State
25 workers' compensation system attributable to the period

1 subsequent to the effective date of this title, after deduct-
2 ing the reasonable costs, as determined by the Secretary
3 of Labor, of obtaining benefits under the State workers'
4 compensation system.

5 **SEC. 3535. COORDINATION OF BENEFITS—FEDERAL WORK-**
6 **ERS' COMPENSATION.**

7 (a) IN GENERAL.—An individual who is eligible to
8 receive compensation under this title because of a cancer
9 (including a specified cancer), chronic silicosis, covered be-
10 ryllium illness, or death and who is also entitled to receive
11 benefits because of the same cancer (including a specified
12 cancer), chronic silicosis, covered beryllium illness, or
13 death from another Federal workers' compensation system
14 shall elect which such benefits to receive.

15 (b) ELECTION.—The individual shall make the elec-
16 tion within the time allowed by the Secretary of Labor.
17 The election when made is irrevocable and binding on all
18 survivors of that individual.

19 (c) COORDINATION.—An individual who has been
20 awarded compensation under this title and who also has
21 received benefits from another Federal workers' com-
22 pensation system because of the same cancer (including
23 a specified cancer), chronic silicosis, covered beryllium ill-
24 ness, or death, shall receive compensation as specified
25 under this title reduced by the amount of any workers'

1 compensation benefits that the individual has received
2 under the other Federal workers' compensation system as
3 a result of the cancer (including a specified cancer), chron-
4 ic silicosis, covered beryllium illness, or death.

5 **SEC. 3536. RECEIPT OF BENEFITS—OTHER STATUTES.**

6 An individual may not receive compensation under
7 this title for cancer and also receive compensation under
8 the Radiation Exposure Compensation Act (42 U.S.C.
9 2210 note) or the Radiation-Exposed Veterans Compensa-
10 tion Act (38 U.S.C. 112(c)).

11 **SEC. 3537. DUAL COMPENSATION—FEDERAL EMPLOYEES.**

12 (a) LIMITATION.—While a Federal employee is re-
13 ceiving compensation under this title, or such employee
14 has been paid a lump sum in commutation of installment
15 payments until the expiration of the period during which
16 the installment payments would have continued, such em-
17 ployee may not receive salary, pay, or remuneration of any
18 type from the United States, except—

19 (1) in return for service actually performed;

20 (2) pension for service in the Army, Navy or
21 Air Force;

22 (3) other benefits administrated by the Depart-
23 ment of Veterans Affairs unless such benefits are
24 payable for the same covered illness or the same
25 death; and

1 (4) retired pay, retirement pay, retainer pay, or
2 equivalent pay for service in the Armed Forces or
3 other uniformed service.

4 However, eligibility for or receipt of benefits under sub-
5 chapter III of chapter 83 of title 5, United States Code,
6 or another retirement system for employees of the Govern-
7 ment, does not impair the right of the employee to com-
8 pensation for scheduled disabilities specified by section
9 8107 of title 5, United States Code.

10 **SEC. 3538. DUAL COMPENSATION—OTHER EMPLOYEES.**

11 An individual entitled to receive compensation under
12 this title because of a cancer (including a specified can-
13 cer), chronic silicosis, covered beryllium illness, or death
14 covered by this title of a covered employee, who also is
15 entitled to receive from the United States under a provi-
16 sion of a statute other than this title payments or benefits
17 for that injury, illness or death (except proceeds of an in-
18 surance policy), because of service by such employee (or
19 in the case of death, by the deceased) as an employee or
20 in the Armed Forces, shall elect which benefits to receive.
21 The individual shall make the election within the time al-
22 lowed by the Secretary of Labor. The election when made
23 is irrevocable, except as otherwise provided by statute.

1 **SEC. 3539. EXCLUSIVITY OF REMEDY AGAINST THE UNITED**
2 **STATES, CONTRACTORS, AND SUBCONTRAC-**
3 **TORS.**

4 (a) IN GENERAL.—The liability of the United States
5 or an instrumentality of the United States under this title
6 with respect to a cancer (including a specified cancer),
7 chronic silicosis, covered beryllium illness, or death of a
8 covered employee is exclusive and instead of all other
9 liability—

10 (1) of—

11 (A) the United States;

12 (B) any instrumentality of the United
13 States;

14 (C) a contractor that contracted with the
15 Department of Energy to provide management
16 and operation, management and integration, or
17 environmental remediation of a Department of
18 Energy facility (in its capacity as a contractor);

19 (D) a subcontractor that provided services,
20 including construction, at a Department of En-
21 ergy facility (in its capacity as a subcontractor);
22 and

23 (E) an employee, agent, or assign of an en-
24 tity specified in subparagraphs (A) through
25 (D);

26 (2) to—

1 (A) the covered employee;

2 (B) the covered employee's legal represent-
3 ative, spouse, dependents, survivors and next of
4 kin; and

5 (C) any other person, including any third
6 party as to whom the covered employee has a
7 cause of action relating to the cancer (including
8 a specified cancer), chronic silicosis, covered be-
9 ryllium illness, or death, otherwise entitled to
10 recover damages from the United States, the
11 instrumentality, the contractor, the subcon-
12 tractor, or the employee, agent, or assign of one
13 of them;

14 because of the cancer (including a specified cancer), chron-
15 ic silicosis, covered beryllium illness, or death in any pro-
16 ceeding or action including a direct judicial proceeding,
17 a civil action, a proceeding in admiralty, or a proceeding
18 under a tort liability statute or the common law.

19 (b) APPLICABILITY.—This section applies to all cases
20 filed on after July 31, 2000.

21 (c) WORKERS' COMPENSATION.—This section does
22 not apply to an administrative or judicial proceeding under
23 a State or Federal workers' compensation statute subject
24 to sections 3534 through 3538.

1 **SEC. 3540 ELECTION OF REMEDY AGAINST BERYLLIUM**
2 **VENDORS AND ATOMIC WEAPONS EMPLOY-**
3 **ERS.**

4 (a) BERYLLIUM VENDORS.—If an individual elects to
5 accept payment under this title with respect to a covered
6 beryllium illness or death of a covered employee, that ac-
7 ceptance of payment shall be in full settlement of all tort
8 claims related to such covered beryllium illness or death—

9 (1) against—

10 (A) a beryllium vendor or a contractor or
11 subcontractor of a beryllium vendor; and

12 (B) an employee, agent, or assign of a be-
13 ryllium vendor or of a contractor or subcon-
14 tractor of a beryllium vendor;

15 (2) by—

16 (A) that individual;

17 (B) that individual's legal representative,
18 spouse, dependents, survivors, and next of kin;
19 and

20 (C) any other person, including any third
21 party as to whom a covered employee has a
22 cause of action relating to the covered beryllium
23 illness or death, otherwise entitled to recover
24 damages from the beryllium vendor, the con-
25 tractor or subcontractor of the beryllium ven-
26 dor, or the employee, agent, or assign of the be-

1 beryllium vendor, of the contractor or subcon-
2 tractor of the beryllium vendor;
3 that arise out of the covered beryllium illness or death in
4 any proceeding or action including a direct judicial pro-
5 ceeding, a civil action, a proceeding in admiralty, or pro-
6 ceeding under a tort liability statute or the common law.

7 (b) ATOMIC WEAPONS EMPLOYER.—If an individual
8 elects to accept payment under this title with respect to
9 a cancer (including a specified cancer) or death of a cov-
10 ered employee, that acceptance of payment shall be in full
11 settlement of all tort claims—

12 (1) against—

13 (A) an atomic weapons employer; and

14 (B) an employee, agent, or assign of an
15 atomic weapons employer;

16 (2) by—

17 (A) that individual;

18 (B) that individual's legal representative,
19 spouse, dependents, survivors, and next of kin;
20 and

21 (C) any other person, including any third
22 party as to whom a covered employee has a
23 cause of action relating to the cancer (including
24 a specified cancer) or death, otherwise entitled
25 to recover damages from the atomic weapons

1 employer, or the employee, agent, or assign of
2 the atomic weapons employer;
3 that arise out of the cancer (including a specified cancer)
4 or death in any proceeding or action including a direct
5 judicial proceeding, a civil action, a proceeding in admi-
6 nistrative, or proceeding under a tort liability statute or the
7 common law.

8 (c) APPLICABILITY.—

9 (1) IN GENERAL.—With respect to a case filed
10 after the date of enactment of this title, alleging li-
11 ability of—

12 (A) a beryllium vendor or a contractor or
13 subcontractor of a beryllium vendor for a cov-
14 ered beryllium illness or death of a covered be-
15 ryllium employee; or

16 (B) an atomic weapons employer for a can-
17 cer (including a specified cancer) or death of a
18 covered employee;

19 the plaintiff shall not be eligible for benefits under
20 this title unless the plaintiff files such case within
21 the applicable time limits in paragraph (2).

22 (2) TIME LIMITS.—

23 (A) SUITS AGAINST BERYLLIUM VEN-
24 DORS.—Except as provided in subparagraph

(B), a case described in paragraph (1)(A) shall be filed not later than the later of—

(i) 180 days after the date of enactment of this title; or

(ii) 180 days after the date the plaintiff first becomes aware that a covered beryllium illness or death of a covered beryllium employee may be connected to the exposure of the covered employee to beryllium in the performance of duty.

(B) NEW DIAGNOSES.—A new period of limitation under subparagraph (A)(ii) shall commence with each new diagnosis of a covered beryllium illness that is different from a previously diagnosed covered beryllium illness.

(C) SUITS AGAINST ATOMIC WEAPONS EMPLOYERS.—Except as provided in subparagraph (D), a case described in paragraph (1)(B) shall be filed not later than the later of—

(i) 180 days after the date of enactment of this title; or

(ii) 180 days after the date the plaintiff first becomes aware that a cancer (including a specified cancer) or death of a covered employee may be connected to the

1 exposure of the covered employee to radi-
2 ation in the performance of duty.

3 (D) NEW DIAGNOSES.—A new period of
4 limitation under subparagraph (C)(ii) shall
5 commence with each new diagnosis of a cancer
6 (including a specified cancer) that is different
7 from a previously diagnosed cancer.

8 (c) WORKERS' COMPENSATION.—This section does
9 not apply to an administrative or judicial proceeding under
10 a State or Federal workers' compensation statute subject
11 to sections 3534 through 3538.

12 **SEC. 3541. SUBROGATION OF THE UNITED STATES.**

13 (a) IN GENERAL.—If a cancer (including a specified
14 cancer), covered beryllium illness, chronic silicosis, dis-
15 ability, or death for which compensation is payable under
16 this title is caused under circumstances creating a legal
17 liability in a person other than the United States to pay
18 damages, sections 8131 and 8132 of title 5, United States
19 Code, shall apply, except to the extent specified in this
20 title.

21 (b) APPEARANCE OF EMPLOYEE.—For the purposes
22 of this title, the provision in section 8131 of title 5, United
23 States Code, that provides that an employee required to
24 appear as a party or witness in the prosecution of an ac-

1 tion described in that section is in an active duty status
2 while so engaged shall only apply to a Federal employee.

3 **SEC. 3542. ENERGY EMPLOYEES' OCCUPATIONAL ILLNESS**
4 **COMPENSATION FUND.**

5 (a) ESTABLISHMENT.—There is hereby established
6 on the books of the Treasury a fund to be known as the
7 Energy Employees' Occupational Illness Compensation
8 Fund. The Secretary of the Treasury shall transfer to the
9 Fund from the general fund of the Treasury the amounts
10 necessary to carry out the purposes of this title.

11 (b) USE OF THE FUND.—Amounts in the Fund shall
12 be used for the payment of compensation under this title
13 and other benefits and expenses authorized by this title
14 or any extension or application thereof, and for payment
15 of all expenses of the administration of this title.

16 (c) COST DETERMINATIONS.—(1) Within 45 days of
17 the end of every quarter of every fiscal year, the Secretary
18 of Labor shall determine the total costs of compensation,
19 benefits, administrative expenses, and other payments
20 made from the Fund during the quarter just ended; the
21 end-of-quarter balance in the Fund; and the amount an-
22 ticipated to be needed during the immediately succeeding
23 two quarters for the payment of compensation, benefits,
24 and administrative expenses under this title.

1 (2) In making the determination under paragraph
2 (1), the Secretary of Labor shall include, without amend-
3 ment, information provided by the Secretary of Energy
4 and the Secretary of Health and Human Services on the
5 total costs and amounts anticipated to be needed for their
6 activities under this title.

7 (3) Each cost determination made in the last quarter
8 of the fiscal year under paragraph (1) shall show, in addi-
9 tion, the total costs of compensation, benefits, administra-
10 tive expenses, and other payments from the Fund during
11 the preceding 12-month expense period and an estimate
12 of the expenditures from the Fund for the payment of
13 compensation, benefits, administrative expenses, and other
14 payments for each of the immediately succeeding two fis-
15 cal years.

16 (d) ASSURING AVAILABLE BALANCE IN THE
17 FUND.—Upon application of the Secretary of Labor, the
18 Secretary of the Treasury shall advance such sums from
19 the Treasury as are projected by the Secretary of Labor
20 to be necessary, for the period of time equaling the date
21 of a projected deficiency in the Fund through 90 days fol-
22 lowing the end of the fiscal year, for the payment of com-
23 pensation and other benefits and expenses authorized by
24 this title or any extension or application thereof, and for
25 payment of all expenses of administering this title.

1 **SEC. 3543. EFFECTIVE DATE.**

2 This title is effective upon enactment, and applies to
3 all claims, civil actions, and proceedings pending on, or
4 filed on or after, the date of enactment of this title.

5 **SEC. 3544. TECHNICAL AND CONFORMING AMENDMENTS.**

6 (a) Section 1920 of title 18 is amended by inserting
7 in the title “or Energy employee’s” after “Federal employ-
8 ee’s” and by inserting “or the Energy Employees’ Occupa-
9 tional Illness Compensation Act of 2000” after “title 5”.

10 (b) Section 1921 of title 18 is amended by inserting
11 in the title “or Energy employees” after “Federal employ-
12 ees” and by inserting “or the Energy Employees’ Occupa-
13 tional Illness Compensation Act of 2000” after “title 5”.

14 (c) Section 210(a)(1) of the Energy Reorganization
15 Act of 1974 (42 U.S.C. 5851(a)(1)) is amended by—

16 (1) in subparagraph (E), striking “or;” and in-
17 serting “;”,

18 (2) in subparagraph (F), striking the period
19 and inserting “; or”, and

20 (3) after subparagraph (F) inserting a new sub-
21 paragraph as follows:

22 “(G) filed an application for benefits or as-
23 sistance under the Energy Employees Occupa-
24 tional Illness Compensation Act of 2000”.

1 (d) Title II of the Department of Energy Organiza-
2 tion Act (P.L. 95–91) is amended by adding at the end
3 of the title the following:

4 “OFFICE OF WORKERS’ COMPENSATION ADVOCATE

5 “SEC. 217. (a) There shall be within the Department
6 an Office of Workers’ Compensation Advocate. The Office
7 shall be headed by a Director who shall be appointed by
8 the Secretary. The Director shall be compensated at the
9 rate provided for in level IV of the Executive Schedule
10 under section 5315 of title 5, United States Code.

11 “(b) The Director shall be responsible for providing
12 information, research reports, and studies to support the
13 implementation of the Energy Employees’ Occupational
14 Illness Compensation Act of 2000. Not later than 90 days
15 after the date of enactment of this section, the Director
16 shall enter into memoranda of agreement to provide for
17 coordination of the efforts of the office with the Depart-
18 ment of Labor and the Department of Health and Human
19 Services.

20 “(c) The Director shall coordinate efforts within the
21 Department to collect and make available to present and
22 former employees of the Department and its predecessor
23 agencies, present and former employees of contractors and
24 subcontractors to the Department and its predecessor
25 agencies, and other individuals who are or were present
26 at facilities owned or operated by the Department or its

1 predecessor agencies information on occupational condi-
2 tions and exposures to health hazards. Such information
3 shall include information on substances and their chemical
4 forms to which employees may have been exposed, records
5 and studies relevant to determining occupational hazards,
6 raw dosimetry and industrial hygiene data, results from
7 medical screening programs, accident and other relevant
8 occurrence reports, and reports, assessments, or reviews
9 by contractors, consultants, or external entities relevant
10 to assessing risk of occupational hazards or illness.

11 “(d) If the Director determines that—

12 “(1) an entity within the Department or an en-
13 tity that is the recipient of a Departmental grant,
14 contract, or cooperative agreement possesses infor-
15 mation necessary to carry out the provisions of the
16 Energy Employees’ Occupational Illness Compensa-
17 tion Act of 2000; and

18 “(2) the production and sharing of that infor-
19 mation under the provisions of the Energy Employ-
20 ees’ Occupational Illness Compensation Act of 2000
21 is being unreasonably delayed;

22 the Director shall have the authority, notwithstanding sec-
23 tion 3213 of the National Nuclear Security Administration
24 Act, to direct such entity to produce expeditiously such
25 information in accordance with the provisions of this sec-

1 tion and the Energy Employees' Occupational Illness
2 Compensation Act of 2000.

3 “(e) The Director shall take actions to inform and
4 assist potential claimants under the Energy Employees'
5 Occupational Illness Compensation Act of 2000, pursuant
6 to section 3515(e) of such Act.”.

Passed the Senate July 13, 2000.

Attest:

Secretary.

106TH CONGRESS
2D SESSION

S. 2552

AN ACT

To authorize appropriations for fiscal year 2001 for defense activities of the Department of Energy, and for other purposes.

S 2552 ES——2

S 2552 ES——3

S 2552 ES——4

S 2552 ES——5

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