

108TH CONGRESS
2^D SESSION

S. 2403

AN ACT

To authorize appropriations for fiscal year 2005 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 2005”.

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1 **TITLE XXXI—DEPARTMENT OF**
 2 **ENERGY NATIONAL SECURITY**
 3 **PROGRAMS**
 4 **Subtitle A—National Security**
 5 **Programs Authorizations**

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

8 (a) AUTHORIZATION OF APPROPRIATIONS.—Funds
 9 are hereby authorized to be appropriated to the Depart-
 10 ment of Energy for fiscal year 2005 for the activities of
 11 the National Nuclear Security Administration in carrying
 12 out programs necessary for national security in the
 13 amount of \$9,165,145,000, to be allocated as follows:

14 (1) For weapons activities, \$6,674,898,000.

15 (2) For defense nuclear nonproliferation activi-
 16 ties, \$1,348,647,000.

17 (3) For naval reactors, \$797,900,000.

18 (4) For the Office of the Administrator for Nu-
 19 clear Security, \$343,700,000.

1 (b) AUTHORIZATION OF NEW PLANT PROJECTS.—
2 From funds referred to in subsection (a) that are available
3 for carrying out plant projects, the Secretary of Energy
4 may carry out new plant projects for weapons activities,
5 as follows:

6 (1) For readiness in technical base and facili-
7 ties:

8 Project 05–D–140, Readiness in Technical
9 Base and Facilities Program (RTBF), project
10 engineering and design (PED), various loca-
11 tions, \$11,600,000.

12 Project 05–D–401, Building 12–64 pro-
13 duction bays upgrade, Pantex Plant, Amarillo,
14 Texas, \$25,000,000.

15 Project 05–D–402, Beryllium Capability
16 (BeC) Project, Y–12 National Security Com-
17 plex, Oak Ridge, Tennessee, \$3,627,000.

18 (2) For facilities and infrastructure recapital-
19 ization:

20 Project 05–D–160, Facilities and Infra-
21 structure Recapitalization Program (FIRP),
22 project engineering and design (PED), various
23 locations, \$8,700,000.

1 Project 05–D–601, compressed air up-
2 grades, Y–12 National Security Complex, Oak
3 Ridge, Tennessee, \$4,400,000.

4 Project 05–D–602, power grid infrastruc-
5 ture upgrade (PGIU), Los Alamos National
6 Laboratory, Los Alamos, New Mexico,
7 \$10,000,000.

8 Project 05–D–603, new master substation,
9 technical areas I and IV, Sandia National Lab-
10 oratories, Albuquerque, New Mexico, \$600,000.

11 (3) For safeguards and security:

12 Project 05–D–170, safeguards and secu-
13 rity, project engineering and design (PED),
14 various locations, \$17,000,000.

15 Project 05–D–701, security perimeter, Los
16 Alamos National Laboratory, Los Alamos, New
17 Mexico, \$20,000,000.

18 (4) For naval reactors:

19 Project 05–N–900, materials development
20 facility building, Schenectady, New York,
21 \$6,200,000.

22 **SEC. 3102. DEFENSE ENVIRONMENTAL MANAGEMENT.**

23 (a) AUTHORIZATION OF APPROPRIATIONS.—Funds
24 are hereby authorized to be appropriated to the Depart-
25 ment of Energy for fiscal year 2005 for environmental

1 management activities in carrying out programs necessary
2 for national security in the amount of \$6,954,402,000, to
3 be allocated as follows:

4 (1) For defense site acceleration completion,
5 \$5,971,932,000.

6 (2) For defense environmental services,
7 \$982,470,000.

8 (b) AUTHORIZATION OF NEW PLANT PROJECT.—
9 From funds referred to in subsection (a)(2) that are avail-
10 able for carrying out plant projects, the Secretary of En-
11 ergy may carry out, for environmental management activi-
12 ties, the following new plant project:

13 Project 05–D–405, salt waste processing facil-
14 ity, Savannah River Site, Aiken, South Carolina,
15 \$52,000,000.

16 **SEC. 3103. OTHER DEFENSE ACTIVITIES.**

17 Funds are hereby authorized to be appropriated to
18 the Department of Energy for fiscal year 2005 for other
19 defense activities in carrying out programs necessary for
20 national security in the amount of \$568,096,000.

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

22 Funds are hereby authorized to be appropriated to
23 the Department of Energy for fiscal year 2005 for defense
24 nuclear waste disposal for payment to the Nuclear Waste
25 Fund established in section 302(c) of the Nuclear Waste

1 Policy Act of 1982 (42 U.S.C. 10222(e)) in the amount
2 of \$108,000,000.

3 **Subtitle B—Program Authoriza-**
4 **tions, Restrictions, and Limita-**
5 **tions**

6 **SEC. 3111. LIMITATION ON AVAILABILITY OF FUNDS FOR**
7 **MODERN PIT FACILITY.**

8 (a) LIMITATION.—Of the amount authorized to be
9 appropriated by section 3101(a)(1) for the National Nu-
10 clear Security Administration for weapons activities and
11 available for the Modern Pit Facility, not more than 50
12 percent of such amount may be obligated or expended
13 until 30 days after the latter of the following:

14 (1) The date of the submittal of the revised nu-
15 clear weapons stockpile plan specified in the joint ex-
16 planatory statement to accompany the report of the
17 Committee on Conference on the bill H.R. 2754 of
18 the 108th Congress.

19 (2) The date on which the Administrator for
20 Nuclear Security submits to the congressional de-
21 fense committees a report setting forth the validated
22 pit production requirements for the Modern Pit Fa-
23 cility.

24 (b) VALIDATED PIT PRODUCTION REQUIREMENTS.—

25 (1) The validated pit production requirements in the re-

1 port under subsection (a)(2) shall be established by the
2 Administrator in conjunction with the Chairman of the
3 Nuclear Weapons Council.

4 (2) The validated pit production requirements shall—

5 (A) include specifications regarding the number
6 of pits that will be required to be produced in order
7 to support the weapons that will be retained in the
8 nuclear weapons stockpile, set forth by weapon type
9 and by year; and

10 (B) take into account any surge capacity that
11 may be included in the annual pit production capa-
12 bility.

13 (c) FORM OF REPORT.—The report described in sub-
14 section (a)(2) shall be submitted in unclassified form, but
15 may include a classified annex.

16 **SEC. 3112. LIMITATION ON AVAILABILITY OF FUNDS FOR**
17 **ADVANCED NUCLEAR WEAPONS CONCEPTS**
18 **INITIATIVE.**

19 (a) LIMITATION.—None of the funds authorized to
20 be appropriated by this title may be obligated or expended
21 for purposes of additional or exploratory studies under the
22 Advanced Nuclear Weapons Concepts Initiative until 30
23 days after the date on which the Administrator for Nu-
24 clear Security submits to the congressional defense com-

1 mitted a detailed report on the activities for such studies
 2 under the Initiative that are planned for fiscal year 2005.

3 (b) FORM OF REPORT.—The report under subsection
 4 (a) shall be submitted in unclassified form, but may in-
 5 clude a classified annex.

6 **SEC. 3113. LIMITED AUTHORITY TO CARRY OUT NEW**
 7 **PROJECTS UNDER FACILITIES AND INFRA-**
 8 **STRUCTURE RECAPITALIZATION PROGRAM**
 9 **AFTER PROJECT SELECTION DEADLINE.**

10 (a) LIMITED AUTHORITY TO CARRY OUT NEW
 11 PROJECTS.—Section 3114(a) of the National Defense Au-
 12 thorization Act for Fiscal Year 2004 (Public Law 108–
 13 136; 117 Stat. 1744; 50 U.S.C. 2453 note) is amended—

14 (1) in the subsection caption, by striking
 15 “DEADLINE FOR”;

16 (2) in paragraph (2), by striking “No project”
 17 and inserting “Except as provided in paragraph (3),
 18 no project”; and

19 (3) by adding at the end the following new
 20 paragraph:

21 “(3)(A) Subject to the provisions of this paragraph,
 22 a project described in subparagraph (B) may be carried
 23 out under the Facilities and Infrastructure Recapitaliza-
 24 tion Program after December 31, 2004, if the Adminis-
 25 trator approves the project. The Administrator may not

1 delegate the authority to approve projects under the pre-
2 ceding sentence.

3 “(B) A project described in this subparagraph is a
4 project that consists of a specific building, facility, or
5 other improvement (including fences, roads, or similar im-
6 provements).

7 “(C) Funds may not be obligated or expended for a
8 project under this paragraph until 60 days after the date
9 on which the Administrator submits to the congressional
10 defense committees a notice on the project, including a
11 description of the project and the nature of the project,
12 a statement explaining why the project was not included
13 in the Facilities and Infrastructure Recapitalization Pro-
14 gram under paragraph (1), and a statement explaining
15 why the project was not included in any other program
16 under the jurisdiction of the Administrator.

17 “(D) The total number of projects that may be car-
18 ried out under this paragraph in any fiscal year may not
19 exceed five projects.

20 “(E) The Administrator may not utilize the authority
21 in this paragraph until 60 days after the later of—

22 “(i) the date of the submittal to the congres-
23 sional defense committees of a list of the projects se-
24 lected for inclusion in the Facilities and Infrastruc-

1 ture Recapitalization Program under paragraph (1);
2 or

3 “(ii) the date of the submittal to the congress-
4 sional defense committees of the report required by
5 subsection (c).

6 “(F) A project may not be carried out under this
7 paragraph unless the project will be completed by Sep-
8 tember 30, 2011.”.

9 (b) CONSTRUCTION OF AUTHORITY.—The amend-
10 ments made by subsection (a) may not be construed to
11 authorize any delay in either of the following:

12 (1) The selection of projects for inclusion in the
13 Facilities and Infrastructure Recapitalization Pro-
14 gram under subsection (a) of section 3114 of the
15 National Defense Authorization Act for Fiscal Year
16 2004.

17 (2) The submittal of the report required by sub-
18 section (c) of such section.

19 **SEC. 3114. MODIFICATION OF MILESTONE AND REPORT RE-**
20 **QUIREMENTS FOR NATIONAL IGNITION FA-**
21 **CILITY.**

22 (a) NOTIFICATION ON MILESTONES TO ACHIEVE IG-
23 NITION.—Subsection (a) of section 3137 of the National
24 Defense Authorization Act for Fiscal Year 2002 (Public
25 Law 107–107; 115 Stat. 1369) is amended by striking

1 “each Level I milestone and Level II milestone for the Na-
 2 tional Ignition Facility.” and inserting the following:
 3 “each milestone for the National Ignition Facility as fol-
 4 lows:

5 “(1) Each Level I milestone.

6 “(2) Each Level II milestone.

7 “(3) Each milestone to achieve ignition.”.

8 (b) REPORT ON FAILURE OF TIMELY ACHIEVEMENT
 9 OF MILESTONES.—Subsection (b) of such section is
 10 amended by striking “a Level I milestone or Level II mile-
 11 stone for the National Ignition Facility” and inserting “a
 12 milestone for the National Ignition Facility referred to in
 13 subsection (a)”.

14 (c) MILESTONES TO ACHIEVE IGNITION.—Sub-
 15 section (c) of such section is amended to read as follows:

16 “(c) MILESTONES.—For purposes of this section:

17 “(1) The Level I and Level II milestones for
 18 the National Ignition Facility are as established in
 19 the August 2000 revised National Ignition Facility
 20 baseline document.

21 “(2) The milestones of the National Ignition
 22 Facility to achieve ignition are such milestones
 23 (other than the milestones referred to in paragraph
 24 (1)) as the Administrator shall establish on any ac-
 25 tivities at the National Ignition Facility that are re-

1 quired to enable the National Ignition Facility to
2 achieve ignition and be a fully functioning user facil-
3 ity by December 31, 2011.”.

4 (d) SUBMITTAL TO CONGRESS OF MILESTONES TO
5 ACHIEVE IGNITION.—Not later than January 31, 2005,
6 the Administrator for Nuclear Security shall submit to the
7 congressional defense committees a report setting forth
8 the milestones of the National Ignition Facility to achieve
9 ignition as established by the Administration under sub-
10 section (c)(2) of section 3137 of the National Defense Au-
11 thorization Act for Fiscal Year 2002, as amended by sub-
12 section (c) of this section. The report shall include—

13 (1) a description of each milestone established;

14 and

15 (2) a proposal for the funding to be required to
16 meet each such milestone.

17 (e) EXTENSION OF SUNSET.—Subsection (d) of sec-
18 tion 3137 of such Act is amended by striking “September
19 30, 2004” and inserting “December 31, 2011”.

20 **SEC. 3115. MODIFICATION OF SUBMITTAL DATE OF ANNUAL**
21 **PLAN FOR STEWARDSHIP, MANAGEMENT,**
22 **AND CERTIFICATION OF WARHEADS IN THE**
23 **NUCLEAR WEAPONS STOCKPILE.**

24 Section 4203(c) of the Atomic Energy Defense Act
25 (50 U.S.C. 2523(c)) is amended is amended by striking

1 “March 15 of each year thereafter” and inserting “May
2 1 of each year thereafter”.

3 **SEC. 3116. DEFENSE SITE ACCELERATION COMPLETION.**

4 (a) IN GENERAL.—Notwithstanding any other provi-
5 sion of law, with respect to material stored at a Depart-
6 ment of Energy site at which activities are regulated by
7 the State pursuant to approved closure plans or permits
8 issued by the State, high-level radioactive waste does not
9 include radioactive material resulting from the reprocess-
10 ing of spent nuclear fuel that the Secretary of Energy
11 determines—

12 (1) does not require permanent isolation in a
13 deep geologic repository for spent fuel or highly ra-
14 dioactive waste pursuant to criteria promulgated by
15 the Department of Energy by rule approved by the
16 Nuclear Regulatory Commission;

17 (2) has had highly radioactive radionuclides re-
18 moved to the maximum extent practical in accord-
19 ance with the Nuclear Regulatory Commission-ap-
20 proved criteria; and

21 (3) in the case of material derived from the
22 storage tanks, is disposed of in a facility (including
23 a tank) within the State pursuant to a State-ap-
24 proved closure plan or a State-issued permit, author-

1 ity for the approval or issuance of which is conferred
2 on the State outside of this Act.

3 (b) INAPPLICABILITY TO CERTAIN MATERIALS.—

4 Subsection (a) shall not apply to any material otherwise
5 covered by that subsection that is transported from the
6 State.

7 (c) SCOPE OF AUTHORITY TO CARRY OUT AC-
8 TIONS.—The Department of Energy may implement any
9 action authorized—

10 (1) by a State-approved closure plan or State-
11 issued permit in existence on the date of enactment
12 of this section; or

13 (2) by a closure plan approved by the State or
14 a permit issued by the State during the pendency of
15 the rulemaking provided for in subsection (a).

16 Any such action may be completed pursuant to the terms
17 of the closure plan or the State-issued permit notwith-
18 standing the final criteria adopted by the rulemaking pur-
19 suant to subsection (a).

20 (d) STATE DEFINED.—In this section, the term
21 “State” means the State of South Carolina.

22 (e) CONSTRUCTION.—(1) Nothing in this section
23 shall affect, alter, or modify the full implementation of—

24 (A) the settlement agreement entered into by
25 the United States with the State of Idaho in the ac-

1 tions captioned Public Service Co. of Colorado v.
2 Batt, Civil No. 91–0035–S–EJL, and United States
3 v. Batt, Civil No. 91–0054–S–EJL, in the United
4 States District Court for the District of Idaho, and
5 the consent order of the United States District
6 Court for the District of Idaho, dated October 17,
7 1995, that effectuates the settlement agreement;

8 (B) the Idaho National Engineering Laboratory
9 Federal Facility Agreement and Consent Order; or

10 (C) the Hanford Federal Facility Agreement
11 and Consent Order.

12 (2) Nothing in this section establishes any precedent
13 or is binding on the State of Idaho, the State of Wash-
14 ington, the State of Oregon, or any other State for the
15 management, storage, treatment, and disposition of radio-
16 active and hazardous materials.

17 **SEC. 3117. NATIONAL ACADEMY OF SCIENCES STUDY.**

18 (a) REVIEW BY NATIONAL RESEARCH COUNCIL.—
19 Not later than 30 days after the date of the enactment
20 of this Act, the Secretary of Energy shall enter into a con-
21 tract with the National Research Council of the National
22 Academies to conduct a study of the necessary tech-
23 nologies and research gaps in the Department of Energy’s
24 program to remove high-level radioactive waste from the

1 storage tanks at the Department's sites in South Carolina,
2 Washington and Idaho.

3 (b) MATTERS TO BE ADDRESSED IN STUDY.—The
4 study shall address the following:

5 (1) the quantities and characteristics of waste
6 in each high-level waste storage tank described in
7 paragraph (a), including data uncertainties;

8 (2) the technologies by which high-level radio-
9 active waste is currently being removed from the
10 tanks for final disposal under the Nuclear Waste
11 Policy Act;

12 (3) technologies currently available but not in
13 use in removing high-level radioactive waste from
14 the tanks;

15 (4) any technology gaps that exist to effect the
16 removal of high-level radioactive waste from the
17 tanks;

18 (5) other matters that in the judgement of the
19 National Research Council directly relate to the
20 focus of this study.

21 (c) TIME LIMITATION.—The National Research
22 Council shall conduct the review over a one year period
23 beginning upon execution of the contract described in sub-
24 section (a).

1 (d) REPORTS.—(1) The National Research Council
2 shall submit its findings, conclusions and recommenda-
3 tions to the Secretary of Energy and to the relevant Com-
4 mittees of jurisdiction of the United States Senate and
5 House of Representatives.

6 (2) The final report shall be submitted in un-
7 classified form with classified annexes as necessary.

8 (e) PROVISION OF INFORMATION.—The Secretary of
9 Energy shall make available to the National Research
10 Council all of the information necessary to complete its
11 report in a timely manner.

12 (f) EXPEDITED PROCESSING OF SECURITY CLEAR-
13 ANCES.—For purposes of facilitating the commencement
14 of the study under this section, the Secretary of Energy
15 shall expedite to the fullest degree possible the processing
16 of security clearances that are necessary for the National
17 Research Council to conduct the study.

18 (g) FUNDING.—Of the amount authorized to be ap-
19 propriated in section 3102(a)(1) for environmental man-
20 agement for defense site acceleration completion,
21 \$750,000 shall be available for the study authorized under
22 this section.

1 **SEC. 3118. ANNUAL REPORT ON EXPENDITURES FOR SAFE-**
2 **GUARDS AND SECURITY.**

3 (a) ANNUAL REPORT REQUIRED.—Subtitle C of title
4 XLVII of the Atomic Energy Defense Act (50 U.S.C.
5 2771 et seq.) is amended by adding at the end the fol-
6 lowing new section:

7 **“SEC. 4732. ANNUAL REPORT ON EXPENDITURES FOR SAFE-**
8 **GUARDS AND SECURITY.**

9 “The Secretary of Energy shall submit to Congress
10 each year, in the budget justification materials submitted
11 to Congress in support of the budget of the President for
12 the fiscal year beginning in such year (as submitted under
13 section 1105(a) of title 31, United States Code), the fol-
14 lowing:

15 “(1) A detailed description and accounting of
16 the proposed obligations and expenditures by the
17 Department of Energy for safeguards and security
18 in carrying out programs necessary for the national
19 security for the fiscal year covered by such budget,
20 including any technologies on safeguards and secu-
21 rity proposed to be deployed or implemented during
22 such fiscal year.

23 “(2) With respect to the fiscal year ending in
24 the year before the year in which such budget is sub-
25 mitted, a detailed description and accounting of—

1 “(A) the policy on safeguards and security,
2 including any modifications in such policy
3 adopted or implemented during such fiscal year;

4 “(B) any initiatives on safeguards and se-
5 curity in effect or implemented during such fis-
6 cal year;

7 “(C) the amount obligated and expended
8 for safeguards and security during such fiscal
9 year, set forth by total amount, by amount per
10 program, and by amount per facility; and

11 “(D) the technologies on safeguards and
12 security deployed or implemented during such
13 fiscal year.”.

14 (b) CLERICAL AMENDMENT.—The table of contents
15 for that Act is amended by inserting after the item relat-
16 ing to section 4731 the following new item:

“Sec. 4732. Annual report on expenditures for safeguards and security.”.

17 **SEC. 3119. AUTHORITY TO CONSOLIDATE COUNTERINTEL-**
18 **LIGENCE OFFICES OF DEPARTMENT OF EN-**
19 **ERGY AND NATIONAL NUCLEAR SECURITY**
20 **ADMINISTRATION WITHIN NATIONAL NU-**
21 **CLEAR SECURITY ADMINISTRATION.**

22 (a) AUTHORITY.—The Secretary of Energy may con-
23 solidate the counterintelligence programs and functions re-
24 ferred to in subsection (b) within the Office of Defense
25 Nuclear Counterintelligence of the National Nuclear Secu-

1 rity Administration and provide for their discharge by that
2 Office.

3 (b) COVERED PROGRAMS AND FUNCTIONS.—The
4 programs and functions referred to in this subsection are
5 as follows:

6 (1) The functions and programs of the Office of
7 Counterintelligence of the Department of Energy
8 under section 215 of the Department of Energy Or-
9 ganization Act (42 U.S.C. 7144b).

10 (2) The functions and programs of the Office of
11 Defense Nuclear Counterintelligence of the National
12 Nuclear Security Administration under section 3232
13 of the National Nuclear Security Administration Act
14 (50 U.S.C. 2422), including the counterintelligence
15 programs under section 3233 of that Act (50 U.S.C.
16 2423).

17 (c) ESTABLISHMENT OF POLICY.—The Secretary
18 shall have the responsibility to establish policy for the dis-
19 charge of the counterintelligence programs and functions
20 consolidated within the National Nuclear Security Admin-
21 istration under subsection (a) as provided for under sec-
22 tion 213 of the Department of Energy Organization Act
23 (42 U.S.C. 7144).

24 (d) PRESERVATION OF COUNTERINTELLIGENCE CA-
25 PABILITY.—In consolidating counterintelligence programs

1 and functions within the National Nuclear Security Ad-
2 ministration under subsection (a), the Secretary shall en-
3 sure that the counterintelligence capabilities of the De-
4 partment of Energy and the National Nuclear Security
5 Administration are in no way degraded or compromised.

6 (e) REPORT ON EXERCISE OF AUTHORITY.—In the
7 event the Secretary exercises the authority in subsection
8 (a), the Secretary shall submit to the congressional de-
9 fense committees a report on the exercise of the authority.
10 The report shall include—

11 (1) a description of the manner in which the
12 counterintelligence programs and functions referred
13 to in subsection (b) shall be consolidated within the
14 Office of Defense Nuclear Counterintelligence of the
15 National Nuclear Security Administration and dis-
16 charged by that Office;

17 (2) a notice of the date on which that Office
18 shall commence the discharge of such programs and
19 functions, as so consolidated; and

20 (3) a proposal for such legislative action as the
21 Secretary considers appropriate to effectuate the dis-
22 charge of such programs and functions, as so con-
23 solidated, by that Office.

24 (f) DEADLINE FOR EXERCISE OF AUTHORITY.—The
25 authority in subsection (a) may be exercised, if at all, not

1 later than one year after the date of the enactment of this
2 Act.

3 **SEC. 3120. TREATMENT OF WASTE MATERIAL.**

4 (a) AVAILABILITY OF FUNDS FOR TREATMENT.—Of
5 the amount authorized to be appropriated by section
6 3102(a)(1) for environmental management for defense site
7 acceleration completion, \$350,000,000 shall be available
8 for the following purposes at the sites referred to in sub-
9 section (b):

10 (1) The safe management of tanks or tank
11 farms used to store waste from reprocessing activi-
12 ties.

13 (2) The on-site treatment and storage of wastes
14 from reprocessing activities and related waste.

15 (3) The consolidation of tank waste.

16 (4) The emptying and cleaning of storage
17 tanks.

18 (5) Actions under section 3116.

19 (b) SITES.—The sites referred to in this subsection
20 are as follows:

21 (1) The Idaho National Engineering and Envi-
22 ronmental Laboratory, Idaho.

23 (2) The Savannah River Site, Aiken, South
24 Carolina.

25 (3) The Hanford Site, Richland, Washington.

1 (c) EFFECTIVE DATE.—This section shall become ef-
2 fective 1 day after enactment.

3 **SEC. 3121. LOCAL STAKEHOLDER ORGANIZATIONS FOR DE-**
4 **PARTMENT OF ENERGY ENVIRONMENTAL**
5 **MANAGEMENT 2006 CLOSURE SITES.**

6 (a) ESTABLISHMENT.—(1) The Secretary of Energy
7 shall establish for each Department of Energy Environ-
8 mental Management 2006 closure site a local stakeholder
9 organization having the responsibilities set forth in sub-
10 section (c).

11 (2) The local stakeholder organization shall be estab-
12 lished in consultation with interested elected officials of
13 local governments in the vicinity of the closure site con-
14 cerned.

15 (b) COMPOSITION.—A local stakeholder organization
16 for a Department of Energy Environmental Management
17 2006 closure site under subsection (a) shall be composed
18 of such elected officials of local governments in the vicinity
19 of the closure site concerned as the Secretary considers
20 appropriate to carry out the responsibilities set forth in
21 subsection (c) who agree to serve on the organization, or
22 the designees of such officials.

23 (c) RESPONSIBILITIES.—A local stakeholder organi-
24 zation for a Department of Energy Environmental Man-
25 agement 2006 closure site under subsection (a) shall—

1 (1) solicit and encourage public participation in
2 appropriate activities relating to the closure and
3 post-closure operations of the site;

4 (2) disseminate information on the closure and
5 post-closure operations of the site to the State gov-
6 ernment of the State in which the site is located,
7 local and Tribal governments in the vicinity of the
8 site, and persons and entities having a stake in the
9 closure or post-closure operations of the site;

10 (3) transmit to appropriate officers and employ-
11 ees of the Department of Energy questions and con-
12 cerns of governments, persons, and entities referred
13 to paragraph (2) on the closure and post-closure op-
14 erations of the site; and

15 (4) perform such other duties as the Secretary
16 and the local stakeholder organization jointly deter-
17 mine appropriate to assist the Secretary in meeting
18 post-closure obligations of the Department at the
19 site.

20 (d) DEADLINE FOR ESTABLISHMENT.—The local
21 stakeholder organization for a Department of Energy En-
22 vironmental Management 2006 closure site shall be estab-
23 lished not later than six months before the closure of the
24 site.

1 (e) INAPPLICABILITY OF FEDERAL ADVISORY COM-
 2 MITTEE ACT.—The Federal Advisory Committee Act (5
 3 U.S.C. App.) shall not apply to local stakeholder organiza-
 4 tions under this section.

5 (f) DEPARTMENT OF ENERGY ENVIRONMENTAL
 6 MANAGEMENT 2006 CLOSURE SITE DEFINED.—In this
 7 section, the term “Department of Energy Environmental
 8 Management 2006 closure site” means each clean up site
 9 of the Department of Energy scheduled by the Depart-
 10 ment as of January 1, 2004, for closure in 2006.

11 **SEC. 3122. REPORT ON MAINTENANCE OF RETIREMENT**
 12 **BENEFITS FOR CERTAIN WORKERS AT 2006**
 13 **CLOSURE SITES AFTER CLOSURE OF SITES.**

14 (a) REPORT REQUIRED.—Not later than 60 days
 15 after the date of the enactment of this Act, the Assistant
 16 Secretary of Energy for Environmental Management shall
 17 submit to the Secretary of Energy a report on the mainte-
 18 nance of retirements benefits for workers at Department
 19 of Energy 2006 closure sites after the closure of such
 20 sites.

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

23 (1) The number of workers at Department of
 24 Energy 2006 closure sites that could lose retirement

1 benefits as a result of the early closure of such a
2 site.

3 (2) The impact on collective bargaining agree-
4 ments with workers at Department of Energy 2006
5 closure sites of the loss of their retirement benefits
6 as described in paragraph (1).

7 (3) The cost of providing retirement benefits,
8 after the closure of Department of Energy 2006 clo-
9 sure sites, to workers at such sites who would other-
10 wise lose their benefits as described in paragraph (1)
11 after the closure of such sites.

12 (c) TRANSMITTAL TO CONGRESS.—Not later than 30
13 days after receiving the report under subsection (a), the
14 Secretary shall transmit the report to Congress, together
15 with such recommendations, including recommendations
16 for legislative action, as the Secretary considers appro-
17 priate.

18 (d) DEFINITIONS.—In this section:

19 (1) The term “Department of Energy 2006 clo-
20 sure site” means the following:

21 (A) The Rocky Flats Environmental Tech-
22 nology Site, Colorado.

23 (B) The Fernald Plant, Ohio.

24 (C) The Mound Plant, Ohio.

1 (2) The term “worker” means any employee
2 who is employed by contract to perform cleanup, se-
3 curity, or administrative duties or responsibilities at
4 a Department of Energy 2006 closure site.

5 (3) The term “retirement benefits” means
6 health, pension, and any other retirement benefits.

7 **SEC. 3123. REPORT ON EFFORTS OF NATIONAL NUCLEAR**
8 **SECURITY ADMINISTRATION TO UNDER-**
9 **STAND PLUTONIUM AGING.**

10 (a) **STUDY.**—(1) The Administrator for Nuclear Se-
11 curity shall enter into a contract with a Federally Funded
12 Research and Development Center (FFRDC) providing
13 for a study to assess the efforts of the National Nuclear
14 Security Administration to understand the aging of pluto-
15 nium in nuclear weapons.

16 (2) The Administrator shall make available to the
17 FFRDC contractor under this subsection all information
18 that is necessary for the contractor to successfully com-
19 plete a meaningful study on a timely basis.

20 (b) **REPORT REQUIRED.**—(1) Not later than two
21 years after the date of the enactment of this Act, the Ad-
22 ministrator shall submit to Congress a report on the find-
23 ings of the study on the efforts of the Administration to
24 understand the aging of plutonium in nuclear weapons.

1 (2) The report shall include the recommendations of
2 the study for improving the knowledge, understanding,
3 and application of the fundamental and applied sciences
4 related to the study of plutonium aging.

5 (3) The report shall be submitted in unclassified
6 form, but may include a classified annex.

7 **Subtitle C—Proliferation Matters**

8 **SEC. 3131. MODIFICATION OF AUTHORITY TO USE INTER-** 9 **NATIONAL NUCLEAR MATERIALS PROTEC-** 10 **TION AND COOPERATION PROGRAM FUNDS** 11 **OUTSIDE THE FORMER SOVIET UNION.**

12 (a) **APPLICABILITY OF AUTHORITY LIMITED TO**
13 **PROJECTS NOT PREVIOUSLY AUTHORIZED.**—Subsection
14 (a) of section 3124 of the National Defense Authorization
15 Act for Fiscal Year 2004 (Public Law 108–136; 117 Stat.
16 1747) is amended by inserting “that has not previously
17 been authorized by Congress” after “states of the former
18 Soviet Union”.

19 (b) **REPEAL OF LIMITATION ON TOTAL AMOUNT OF**
20 **OBLIGATION.**—Such section is further amended—

21 (1) by striking subsection (c); and

22 (2) by redesignating subsections (d), (e), and

23 (f) as subsections (c), (d), and (e), respectively.

1 **SEC. 3132. ACCELERATION OF REMOVAL OR SECURITY OF**
2 **FISSILE MATERIALS, RADIOLOGICAL MATE-**
3 **RIALS, AND RELATED EQUIPMENT AT VUL-**
4 **NERABLE SITES WORLDWIDE.**

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

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

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

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

24 (A) Accelerated efforts to secure, remove, or
25 eliminate proliferation-attractive fissile materials or

1 radiological materials in research reactors, other re-
2 actors, and other facilities worldwide.

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

11 (C) The transportation of proliferation-attract-
12 tive fissile materials, radiological materials, and re-
13 lated equipment from sites identified as proliferation
14 risks to secure facilities in other countries or in the
15 United States.

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

21 (E) The provision of interim security upgrades
22 for vulnerable, proliferation-attractive fissile mate-
23 rials and radiological materials and related equip-
24 ment pending their removal from their current sites.

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

7 (G) The management of proliferation-attractive
8 fissile materials, radiological materials, and related
9 equipment at secure facilities.

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

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

21 (J) The development of alternative fuels and ir-
22 radiation targets based on low-enriched uranium to
23 convert research or other reactors fueled by highly-
24 enriched uranium to such alternative fuels, as well
25 as the conversion of reactors and irradiation targets

1 employing highly-enriched uranium to employment
2 of such alternative fuels and targets.

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

5 (L) The provision of assistance in the closure
6 and decommissioning of sites identified as presenting
7 risks of proliferation of proliferation-attractive fissile
8 materials, radiological materials, and related equip-
9 ment.

10 (M) Programs to—

11 (i) assist in the placement of employees
12 displaced as a result of actions pursuant to the
13 program in enterprises not representing a pro-
14 liferation threat; and

15 (ii) convert sites identified as presenting
16 risks of proliferation regarding proliferation-at-
17 tractive fissile materials, radiological materials,
18 and related equipment to purposes not rep-
19 resenting a proliferation threat to the extent
20 necessary to eliminate the proliferation threat.

21 (2) The Secretary of Energy shall, in coordination
22 with the Secretary of State, carry out the program in con-
23 sultation with, and with the assistance of, appropriate de-
24 partments, agencies, and other entities of the United
25 States Government.

1 (3) The Secretary of Energy shall, with the concur-
2 rence of the Secretary of State, carry out activities under
3 the program in collaboration with such foreign govern-
4 ments, non-governmental organizations, and other inter-
5 national entities as the Secretary considers appropriate for
6 the program.

7 (d) REPORTS.—(1) Not later than March 15, 2005,
8 the Secretary shall submit to Congress a classified interim
9 report on the program under subsection (b).

10 (2) Not later than January 1, 2006, the Secretary
11 shall submit to Congress a classified final report that in-
12 cludes the following:

13 (A) A survey by the Secretary of the facilities
14 and sites worldwide that contain proliferation-attract-
15 ive fissile materials, radiological materials, or re-
16 lated equipment.

17 (B) A list of sites determined by the Secretary
18 to be of the highest priority, taking into account risk
19 of theft from such sites, for removal or security of
20 proliferation-attractive fissile materials, radiological
21 materials, or related equipment, organized by level of
22 priority.

23 (C) A plan, including activities under the pro-
24 gram under this section, for the removal, security, or
25 both of proliferation-attractive fissile materials, radi-

1 ological materials, or related equipment at vulner-
2 able facilities and sites worldwide, including measur-
3 able milestones, metrics, and estimated costs for the
4 implementation of the plan.

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

7 (e) FUNDING.—Amounts authorized to be appro-
8 priated to the Secretary of Energy for defense nuclear
9 nonproliferation activities shall be available for purposes
10 of the program under this section.

11 (f) DEFINITIONS.—In this section:

12 (1) The term “fissile materials” means pluto-
13 nium, highly-enriched uranium, or other material ca-
14 pable of sustaining an explosive nuclear chain reac-
15 tion, including irradiated items containing such ma-
16 terials if the radiation field from such items is not
17 sufficient to prevent the theft or misuse of such
18 items.

19 (2) The term “radiological materials” includes
20 Americium-241, Californium-252, Cesium-137, Co-
21 balt-60, Iridium-192, Plutonium-238, Radium-226
22 and Strontium-90, Curium-244, Strontium-90, and
23 irradiated items containing such materials, or other
24 materials designated by the Secretary of Energy for
25 purposes of this paragraph.

1 (3) The term “related equipment” includes
2 equipment useful for enrichment of uranium in the
3 isotope 235 and for extraction of fissile materials
4 from irradiated fuel rods and other equipment des-
5 ignated by the Secretary of Energy for purposes of
6 this section.

7 (4) The term “highly-enriched uranium” means
8 uranium enriched to or above 20 percent in isotope
9 235.

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

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

19 **Subtitle D—Other Matters**

20 **SEC. 3141. INDEMNIFICATION OF DEPARTMENT OF ENERGY**

21 **CONTRACTORS.**

22 Section 170 d.(1)(A) of the Atomic Energy Act of
23 1954 (42 U.S.C. 2210(d)(1)(A)) is amended by striking
24 “until December 31, 2004” and inserting “until December
25 31, 2006”.

1 **SEC. 3142. TWO-YEAR EXTENSION OF AUTHORITY FOR AP-**
 2 **POINTMENT OF CERTAIN SCIENTIFIC, ENGI-**
 3 **NEERING, AND TECHNICAL PERSONNEL.**

4 Section 4601(c)(1) of the Atomic Energy Defense Act
 5 (50 U.S.C. 2701(c)(1)) is amended by striking “Sep-
 6 tember 30, 2004” and inserting “September 30, 2006”.

7 **SEC. 3143. ENHANCEMENT OF ENERGY EMPLOYEES OCCU-**
 8 **PATIONAL ILLNESS COMPENSATION PRO-**
 9 **GRAM AUTHORITIES.**

10 (a) STATE AGREEMENTS.—Section 3661 of the Floyd
 11 D. Spence National Defense Authorization Act for Fiscal
 12 Year 2001 (as enacted into law by Public Law 106–394)
 13 (42 U.S.C. 7385o) is amended—

14 (1) in subsection (b), by striking “Pursuant to
 15 agreements under subsection (a), the” and inserting
 16 “The”;

17 (2) in subsection (c), by striking “provided in
 18 an agreement under subsection (a), and if”; and

19 (3) in subsection (e), by striking “If provided in
 20 an agreement under subsection (a)” and inserting
 21 “If a panel has reported a determination under sub-
 22 section (d)(5)”.

23 (b) PHYSICIAN PANELS.—Subsection (d) of such sec-
 24 tion is amended by striking paragraph (2) and inserting
 25 the following new paragraph (2):

1 “(2) The Secretary of Health and Human Services
2 shall, in consultation with the Secretary of Energy, select
3 the individuals to serve as panel members based on experi-
4 ence and competency in diagnosing occupational illnesses.
5 The Secretary shall appoint the individuals so selected as
6 panel members or shall obtain by contract the services of
7 such individuals as panel members.”.

8 **SEC. 3144. SUPPORT FOR PUBLIC EDUCATION IN THE VI-**
9 **CINITY OF LOS ALAMOS NATIONAL LABORA-**
10 **TORY, NEW MEXICO.**

11 The Secretary of Energy shall require that the pri-
12 mary management and operations contract for Los Ala-
13 mos National Laboratory, New Mexico, that involves Lab-
14 oratory operations after September 30, 2005, shall contain
15 terms requiring the contractor under such contract to pro-
16 vide support to the Los Alamos Public School District,
17 New Mexico, for the elementary and secondary education
18 of students by the School District in the amount of
19 \$8,000,000 in each fiscal year.

20 **SEC. 3145. REVIEW OF WASTE ISOLATION PILOT PLANT,**
21 **NEW MEXICO, PURSUANT TO COMPETITIVE**
22 **CONTRACT.**

23 (a) **CONTRACT REQUIREMENT.**—The Secretary of
24 Energy shall use competitive procedures to enter into a
25 contract to conduct independent reviews and evaluations

1 of the design, construction, and operations of the Waste
2 Isolation Pilot Plant in New Mexico (hereafter in this sec-
3 tion referred as the “WIPP”) as they relate to the protec-
4 tion of the public health and safety and the environment.
5 The contract shall be for a period of one year, beginning
6 on October 1, 2004, and shall be renewable for four addi-
7 tional one-year periods with the consent of the contractor
8 and subject to the authorization and appropriation of
9 funds for such purpose.

10 (b) CONTENT OF CONTRACT.—A contract entered
11 into under subsection (a) shall require the following:

12 (1) The contractor shall appoint a Director and
13 Deputy Director, who shall be scientists of national
14 eminence in the field of nuclear waste disposal, shall
15 be free from any biases related to the activities of
16 the WIPP, and shall be widely known for their in-
17 tegrity and scientific expertise.

18 (2) The Director shall appoint staff. The pro-
19 fessional staff shall consist of scientists and engi-
20 neers of recognized integrity and scientific expertise
21 who represent scientific and engineering disciplines
22 needed for a thorough review of the WIPP, including
23 disciplines such as geology, hydrology, health phys-
24 ics, environmental engineering, probability risk anal-
25 ysis, mining engineering, and radiation chemistry.

1 The disciplines represented in the staff shall change
2 as may be necessary to meet changed needs in car-
3 rying out the contract for expertise in any certain
4 scientific or engineering discipline. Scientists em-
5 ployed under the contract shall have qualifications
6 and experience equivalent to the qualifications and
7 experience required for scientists employed by the
8 Federal Government in grades GS-13 through GS-
9 15.

10 (3) Scientists employed under the contract shall
11 have an appropriate support staff.

12 (4) The Director and Deputy Director shall
13 each be appointed for a term of 5 years, subject to
14 contract renewal, and may be removed only for mis-
15 conduct or incompetence. The staff shall be ap-
16 pointed for such terms as the Director considers ap-
17 propriate.

18 (5) The rates of pay of professional staff and
19 the procedures for increasing the rates of pay of pro-
20 fessional staff shall be equivalent to those rates and
21 procedures provided for the General Schedule pay
22 system under chapter 53 of title 5, United States
23 Code.

24 (6) The results of reviews and evaluations car-
25 ried out under the contract shall be published.

1 (c) ADMINISTRATION.—The contractor shall establish
 2 general policies and guidelines to be used by the Director
 3 in carrying out the work under the contract.

4 **SEC. 3146. COMPENSATION OF PAJARITO PLATEAU, NEW**
 5 **MEXICO, HOMESTEADERS FOR ACQUISITION**
 6 **OF LANDS FOR MANHATTAN PROJECT IN**
 7 **WORLD WAR II.**

8 (a) ESTABLISHMENT OF COMPENSATION FUND.—
 9 There is established in the Treasury of the United States
 10 a fund to be known as the Pajarito Plateau Homesteaders
 11 Compensation Fund (in this section referred to as the
 12 “Fund”). The Fund shall be dedicated to the settlement
 13 of the two lawsuits in the United States District Court
 14 for the District of New Mexico consolidated as Civ. No.
 15 00–60.

16 (b) ELEMENTS OF FUND.—The Fund shall consist
 17 of the following:

18 (1) Amounts available for deposit in the Fund
 19 under subsection (j).

20 (2) Interest earned on amounts in the Fund
 21 under subsection (g).

22 (c) USE OF FUND.—The Fund shall be available for
 23 the settlement of the consolidated lawsuits in accordance
 24 with the following requirements:

1 (1) The settlement shall be subject to prelimi-
2 nary and final approval by the Court in accordance
3 with rule 23(e) of the Federal Rules of Civil Proce-
4 dure.

5 (2) Lead Counsel and Counsel for the United
6 States of America shall recommend to the Court rea-
7 sonable procedures by which the claims for monies
8 from the Fund shall be administered, which rec-
9 ommendations shall include mechanisms—

10 (A) to identify class members;

11 (B) to receive claims from class members
12 so identified;

13 (C) to determine in accordance with sub-
14 section (d) eligible claimants from among class
15 members submitting claims; and

16 (D) to resolve contests, if any, among eligi-
17 ble claimants with respect to a particular eligi-
18 ble tract regarding the disbursement of monies
19 in the Fund with respect to such eligible tract.

20 (3) Lead Counsel and Counsel for the United
21 States of America shall provide evidence to the
22 Court to assist the Court in—

23 (A) identifying each class member by name
24 and whereabouts;

1 (B) providing notice of the settlement
2 process for the consolidated lawsuits to each
3 class member so identified; and

4 (C) providing the forms, and describing the
5 procedure, for making claims to each class
6 member so identified.

7 (4) After the provision of notice to class mem-
8 bers under paragraph (3), if, within a time period to
9 be established by the Court, more than 10 percent
10 of the class members submit to the Court written
11 notice of their determination to be excluded from
12 participation in the settlement of the consolidated
13 lawsuits—

14 (A) the Fund shall not serve as the basis
15 for the settlement of the consolidated lawsuits
16 and the provisions of this section shall have no
17 further force or effect; and

18 (B) amounts in the Fund shall not be dis-
19 bursed, but shall be retained in the Treasury as
20 miscellaneous receipts.

21 (5) The Court may award attorney fees and ex-
22 penses from the Fund pursuant to rule 23 of the
23 Federal Rules of Civil Procedure, except that the
24 award of attorney fees may not exceed 20 percent of
25 the Fund and the award of expenses may not exceed

1 2 percent of the Fund. Any attorney fees and ex-
2 penses so paid shall be paid from the Fund before
3 distribution of the amount in the Fund to eligible
4 claimants entitled thereto.

5 (6) The Fund shall be available to pay settle-
6 ment awards in accordance with the following:

7 (A) The balance of the amount of the
8 Fund that is available for disbursement after
9 any award of attorney fees and expenses under
10 paragraph (5) shall be allocated proportionally
11 by eligible tract according to its acreage as
12 compared with all eligible tracts.

13 (B) The allocation for each eligible tract
14 shall be allocated pro rata among all eligible
15 claimants having an interest in such eligible
16 tract according to the extent of their interest in
17 such eligible tract, as determined under the
18 laws of the State of New Mexico.

19 (C) Payments from the Fund under this
20 paragraph shall be made by the Secretary of
21 the Treasury.

22 (7) Any amounts available for disbursement
23 with respect to an eligible tract that are not awarded
24 to eligible claimants with respect to that tract by

1 reason of paragraph (6)(B) shall be retained in the
2 Treasury as miscellaneous receipts.

3 (d) ELIGIBLE CLAIMANTS.—(1) For purposes of this
4 section, an eligible claimant is any class member deter-
5 mined by the Court, by a preponderance of evidence and
6 pursuant to procedures established under subsection
7 (c)(2), to be a person or entity who held a fee simple own-
8 ership in an eligible tract at the time of its acquisition
9 by the United States during World War II for use in the
10 Manhattan Project, or the heir, successor in interest, as-
11 signee, or beneficiary of such a person or entity.

12 (2) The status of a person or entity as an heir, suc-
13 cessor in interest, assignee, or beneficiary for purposes of
14 this subsection shall be determined under the laws of the
15 State of New Mexico, including the descent and distribu-
16 tion law of the State of New Mexico.

17 (e) FULL RESOLUTION OF CLAIMS AGAINST UNITED
18 STATES.—(1) The acceptance of a disbursement from the
19 Fund by an eligible claimant under this section shall con-
20 stitute a final and complete release of the defendants in
21 the consolidated lawsuits with respect to such eligible
22 claimant, and shall be in full satisfaction of any and all
23 claims of such eligible claimant against the United States
24 arising out of acts described in the consolidated lawsuits.

1 (2) Upon the disbursement of the amount in the
2 Fund to eligible claimants entitled thereto under this sec-
3 tion, the Court shall, subject to the provisions of rule 23(e)
4 of the Federal Rules of Civil Procedure, enter a final judg-
5 ment dismissing with prejudice the consolidated lawsuits
6 and all claims and potential claims on matters covered by
7 the consolidated lawsuits.

8 (f) COMPENSATION LIMITED TO AMOUNTS IN
9 FUND.—(1) An eligible claimant may be paid under this
10 section only from amounts in the Fund.

11 (2) Nothing in this section shall authorize the pay-
12 ment to a class member by the United States Government
13 of any amount authorized by this section from any source
14 other than the Fund.

15 (g) INVESTMENT OF FUND.—(1) The Secretary of
16 the Treasury shall, in accordance with the requirements
17 of section 9702 of title 31, United States Code, and the
18 provisions of this subsection, direct the form and manner
19 by which the Fund shall be safeguarded and invested so
20 as to maximize its safety while earning a return com-
21 parable to other common funds in which the United States
22 Treasury is the source of payment.

23 (2) Interest on the amount deposited in the Fund
24 shall accrue from the date of the enactment of the Act
25 appropriating amounts for deposit in the Fund until the

1 date on which the Secretary of the Treasury disburses the
2 amount in the Fund to eligible claimants who are entitled
3 thereto under subsection (c).

4 (h) PRESERVATION OF RECORDS.—(1) All docu-
5 ments, personal testimony, and other records created or
6 received by the Court in the consolidated lawsuits shall
7 be kept and maintained by the Archivist of the United
8 States, who shall preserve such documents, testimony, and
9 records in the National Archives of the United States.

10 (2) The Archivist shall make available to the public
11 the materials kept and maintained under paragraph (1).

12 (i) DEFINITIONS.—In this section:

13 (1) The term “Court” means the United States
14 District Court for the District of New Mexico having
15 jurisdiction over the consolidated lawsuits.

16 (2) The term “consolidated lawsuits” means the
17 two lawsuits in the United States District Court for
18 the District of New Mexico consolidated as Civ. No.
19 00–60.

20 (3)(A) The term “eligible tract” means private
21 real property located on the Pajarito Plateau of
22 what is now Los Alamos County, New Mexico, that
23 was acquired by the United States during World
24 War II for use in the Manhattan Project and which
25 is the subject of the consolidated lawsuits.

1 (B) The term does not include lands of the Los
2 Alamos Ranch School and of the A.M. Ross Estate
3 (doing business as Anchor Ranch).

4 (4) The term “class member” means the fol-
5 lowing:

6 (A) Any person or entity who claims to
7 have held a fee simple ownership in an eligible
8 tract at the time of its acquisition by the
9 United States during World War II for use in
10 the Manhattan Project.

11 (B) Any person or entity claiming to be
12 the heir, successor in interest, assignee, or ben-
13 eficiary of a person or entity who held a fee
14 simple ownership in an eligible tract at the time
15 of its acquisition by the United States during
16 World War II for use in the Manhattan Project.

17 (j) FUNDING.—Of the amount authorized to be ap-
18 propriated by section 3101(a)(4) for the National Nuclear
19 Security Administration for the Office of the Adminis-
20 trator for Nuclear Security, \$10,000,000 shall be available
21 for deposit in the Fund under subsection (b)(1).

1 **Subtitle E—Energy Employees Oc-**
2 **cupational Illness Compensa-**
3 **tion Program**

4 **SEC. 3154. TERMINATION OF EFFECT OF OTHER ENHANCE-**
5 **MENTS OF ENERGY EMPLOYEES OCCUPA-**
6 **TIONAL ILLNESS COMPENSATION PROGRAM.**

7 Notwithstanding any other provision of this Act, sec-
8 tion 3143, relating to enhancements of the Energy Em-
9 ployees Occupational Illness Compensation Program, shall
10 have no force or effect, and the amendments specified in
11 such section shall not be made.

12 **SEC. 3155. SENSE OF SENATE ON RESOURCE CENTER FOR**
13 **ENERGY EMPLOYEES UNDER ENERGY EM-**
14 **PLOYEE OCCUPATIONAL ILLNESS COM-**
15 **PENSATION PROGRAM IN WESTERN NEW**
16 **YORK AND WESTERN PENNSYLVANIA RE-**
17 **GION.**

18 (a) FINDINGS.—The Senate makes the following
19 findings:

20 (1) New York has 36 current or former Depart-
21 ment of Energy facilities involved in nuclear weap-
22 ons production-related activities statewide, mostly
23 atomic weapons employer facilities, and 14 such fa-
24 cilities in western New York. Despite having one of
25 the greatest concentrations of such facilities in the

1 United States, western New York, and abutting
2 areas of Pennsylvania, continue to be severely under-
3 served by the Energy Employees Occupational Ill-
4 ness Compensation Program under the Energy Em-
5 ployees Occupational Illness Compensation Program
6 Act of 2000 (title XXXVI of the Floyd D. Spence
7 National Defense Authorization Act for Fiscal Year
8 2001 (as enacted into law by Public Law 106–398);
9 42 U.S.C. 7384 et seq.).

10 (2) The establishment of a permanent resource
11 center in western New York would represent a sub-
12 stantial step toward improving services under the
13 Energy Employees Occupational Illness Compensa-
14 tion Program for energy employees in this region.

15 (3) The number of claims submitted to the De-
16 partment under subtitle B of the Energy Employees
17 Occupational Illness Compensation Program Act of
18 2000 from the western New York region, including
19 western Pennsylvania, exceeds the number of such
20 claims filed at resource centers in Hanford, Wash-
21 ington, Portsmouth, Ohio, Los Alamos, New Mexico,
22 the Nevada Test Site, Nevada, the Rocky Flats En-
23 vironmental Technology Site, Colorado, the Idaho
24 National Engineering Laboratory, Idaho, and the
25 Amchitka Test Site, Alaska.

1 (4) Energy employees in the western New York
2 region, including western Pennsylvania, deserve as-
3 sistance under subtitle B of the Energy Employees
4 Occupational Illness Compensation Program Act of
5 2000 commensurate with the assistance provided en-
6 ergy employees at other locations in the United
7 States.

8 (b) SENSE OF SENATE.—It is the sense of the Senate
9 to encourage the Office of Ombudsman of the Department
10 of Labor, as established by section 3669 of the Energy
11 Employees Occupational Illness Compensation Program
12 Act of 2000 (as amended by section 3163 of this Act),
13 to—

14 (1) review the availability of assistance under
15 subtitle B of the Energy Employees Occupational
16 Illness Compensation Program Act of 2000 for en-
17 ergy employees in the western New York region, in-
18 cluding western Pennsylvania; and

19 (2) recommend a location in that region for a
20 resource center to provide such assistance to such
21 energy employees.

1 **SEC. 3156. REVIEW BY CONGRESS OF INDIVIDUALS DES-**
2 **IGNATED BY PRESIDENT AS MEMBERS OF CO-**
3 **HORT.**

4 Section 3621(14)(C)(ii) of that Act (42 U.S.C. 10
5 7384l(14)(C)(ii)) is amended by striking “180 days” and
6 inserting “60 days.”

7 **SEC. 3157. INCLUSION OF CERTAIN FORMER NUCLEAR**
8 **WEAPONS PROGRAM WORKERS IN SPECIAL**
9 **EXPOSURE COHORT UNDER THE ENERGY EM-**
10 **PLOYEES OCCUPATIONAL ILLNESS COM-**
11 **PENSATION PROGRAM.**

12 (a) FINDINGS.—Congress makes the following find-
13 ings:

14 (1) Energy workers at the former Mallinkrodt
15 facilities (including the St. Louis downtown facility
16 and the Weldon Springs facility) were exposed to
17 levels of radionuclides and radioactive materials that
18 were much greater than the current maximum allow-
19 able Federal standards.

20 (2) The Mallinkrodt workers at the St. Louis
21 site were exposed to excessive levels of airborne ura-
22 nium dust relative to the standards in effect during
23 the time, and many workers were exposed to 200
24 times the preferred levels of exposure.

25 (3)(A) The chief safety officer for the Atomic
26 Energy Commission during the Mallinkrodt-St.

1 Louis operations described the facility as 1 of the 2
2 worst plants with respect to worker exposures.

3 (B) Workers were excreting in excess of a milli-
4 gram of uranium per day causing kidney damage.

5 (C) A recent epidemiological study found excess
6 levels of nephritis and kidney cancer from inhalation
7 of uranium dusts.

8 (4) The Department of Energy has admitted
9 that those Mallinkrodt workers were subjected to
10 risks and had their health endangered as a result of
11 working with these highly radioactive materials.

12 (5) The Department of Energy reported that
13 workers at the Weldon Springs feed materials plant
14 handled plutonium and recycled uranium, which are
15 highly radioactive.

16 (6) The National Institute of Occupational
17 Safety and Health admits that—

18 (A) the operations at the St. Louis down-
19 town site consisted of intense periods of proc-
20 essing extremely high levels of radionuclides;
21 and

22 (B) the Institute has virtually no personal
23 monitoring data for Mallinkrodt workers prior
24 to 1948.

1 (7) The National Institute of Occupational
2 Safety and Health has informed claimants and their
3 survivors at those 3 Mallinkrodt sites that if they
4 are not interviewed as a part of the dose reconstruc-
5 tion process, it—

6 (A) would hinder the ability of the Insti-
7 tute to conduct dose reconstruction for the
8 claimant; and

9 (B) may result in a dose reconstruction
10 that incompletely or inaccurately estimates the
11 radiation dose to which the energy employee
12 named in the claim had been exposed.

13 (8) Energy workers at the Iowa Army Ammuni-
14 tion Plant (also known as the Burlington Atomic
15 Energy Commission Plant and the Iowa Ordnance
16 Plant) between 1947 and 1975 were exposed to lev-
17 els of radionuclides and radioactive material, includ-
18 ing enriched uranium, plutonium, tritium, and de-
19 pleted uranium, in addition to beryllium and photon
20 radiation, that are greater than the current max-
21 imum Federal standards for exposure.

22 (9) According to the National Institute of Occu-
23 pational Safety and Health—

24 (A) between 1947 and 1975, no records,
25 including bioassays or air samples, have been

1 located that indicate any monitoring occurred of
2 internal doses of radiation to which workers de-
3 scribed in paragraph (8) were exposed;

4 (B) between 1947 and 1955, no records,
5 including dosimetry badges, have been located
6 to indicate that any monitoring occurred of the
7 external doses of radiation to which such work-
8 ers were exposed;

9 (C) between 1955 and 1962, records indi-
10 cate that only 8 to 23 workers in a workforce
11 of over 1,000 were monitored for external radi-
12 ation doses; and

13 (D) between 1970 and 1975, the high
14 point of screening at the Iowa Army Ammuni-
15 tion Plant, only 25 percent of the workforce
16 was screened for exposure to external radiation.

17 (10) The Department of Health and Human
18 Services published the first notice of proposed rule-
19 making concerning the Special Exposure Cohort on
20 June 25, 2002, and the final rule published on May
21 26, 2004.

22 (11) Many of those former workers have died
23 while waiting for the proposed rule to be finalized,
24 including some claimants who were waiting for dose
25 reconstruction to be completed.

1 (12) Because of the aforementioned reasons, in-
2 cluding the serious lack of records and the death of
3 many potential claimants, it is not feasible to con-
4 duct valid dose reconstructions for the Iowa Army
5 Ammunition Plant facility or the Mallinkrodt facili-
6 ties.

7 (b) INCLUSION OF CERTAIN FORMER WORKERS IN
8 COHORT.—Section 3621(14) of the Energy Employees
9 Occupational Illness Compensation Program Act of 2000
10 (title XXXVI of the Floyd D. Spence National Defense
11 Authorization Act for Fiscal Year 2001 (as enacted into
12 law by Public Law 106–398); 42 U.S.C. 7384l(14)) is
13 amended—

14 (1) by redesignating subparagraph (C) as sub-
15 paragraph (D); and

16 (2) by inserting after subparagraph (B) the fol-
17 lowing new subparagraph (C):

18 “(C) Subject to the provisions of section
19 3612A and section 3146(e) of the National De-
20 fense Authorization Act for Fiscal Year 2005,
21 the employee was so employed for a number of
22 work days aggregating at least 45 workdays at
23 a facility operated under contract to the De-
24 partment of Energy by Mallinkrodt Incor-
25 porated or its successors (including the St.

1 Louis downtown or ‘Destrehan’ facility during
2 any of calendar years 1942 through 1958 and
3 the Weldon Springs feed materials plant facility
4 during any of calendar years 1958 through
5 1966), or at a facility operated by the Depart-
6 ment of Energy or under contract by Mason &
7 Hangar-Silas Mason Company at the Iowa
8 Army Ammunition Plant (also known as the
9 Burlington Atomic Energy Commission Plant
10 and the Iowa Ordnance Plant) during any of
11 the calendar years 1947 through 1975, and
12 during the employment—

13 “(i)(I) was monitored through the use
14 of dosimetry badges for exposure at the
15 plant of the external parts of an employ-
16 ee’s body to radiation; or

17 “(II) was monitored through the use
18 of bioassays, in vivo monitoring, or breath
19 samples for exposure at the plant to inter-
20 nal radiation; or

21 “(ii) worked in a job that had expo-
22 sures comparable to a job that is mon-
23 itored, or should have been monitored,
24 under standards of the Department of En-
25 ergy in effect on the date of enactment of

1 this subparagraph through the use of do-
 2 simetry badges for monitoring external ra-
 3 diation exposures, or bioassays, in vivo
 4 monitoring, or breath samples for internal
 5 radiation exposures, at a facility.”.

6 (c) FUNDING OF COMPENSATION AND BENEFITS.—

7 (1) Such Act is further amended by inserting after section
 8 3612 the following new section:

9 **“SEC. 3612A. FUNDING FOR COMPENSATION AND BENEFITS**
 10 **FOR CERTAIN MEMBERS OF THE SPECIAL EX-**
 11 **POSURE COHORT.**

12 “(a) AUTHORIZATION OF APPROPRIATIONS.—There
 13 is hereby authorized to be appropriated to the Department
 14 of Labor for each fiscal year after fiscal year 2004 such
 15 sums as may be necessary for the provision of compensa-
 16 tion and benefits under the compensation program for
 17 members of the Special Exposure Cohort described in sec-
 18 tion 3621(14)(C) in such fiscal year.

19 “(b) PROHIBITION ON USE FOR ADMINISTRATIVE
 20 COSTS.—(1) No amount authorized to be appropriated by
 21 subsection (a) may be utilized for purposes of carrying out
 22 the compensation program for the members of the Special
 23 Exposure Cohort referred to in that subsection or admin-
 24 istering the amount authorized to be appropriated by sub-
 25 section (a).

1 “(2) Amounts for purposes described in paragraph
2 (1) shall be derived from amounts authorized to be appro-
3 priated by section 3614(a).

4 “(c) PROVISION OF COMPENSATION AND BENEFITS
5 SUBJECT TO APPROPRIATIONS ACTS.—The provision of
6 compensation and benefits under the compensation pro-
7 gram for members of the Special Exposure Cohort re-
8 ferred to in subsection (a) in any fiscal year shall be sub-
9 ject to the availability of appropriations for that purpose
10 for such fiscal year and to applicable provisions of appro-
11 priations Acts.”.

12 (2) Section 3612(d) of such Act (42 U.S.C. 7384e(d))
13 is amended—

14 (A) by inserting “(1)” before “Subject”; and

15 (B) by adding at the end the following new
16 paragraph:

17 “(2) Amounts for the provision of compensation and
18 benefits under the compensation program for members of
19 the Special Exposure Cohort described in section
20 3621(14)(C) may be derived from amounts authorized to
21 be appropriated by section 3612A(a).”.

22 (d) OFFSET.—The total amount authorized to be ap-
23 propriated under subtitle A of this title is hereby reduced
24 by \$61,000,000.

1 (e) CERTIFICATION.—Funds shall be available to pay
2 claims approved by the National Institute of Occupational
3 Safety and Health for a facility by reason of section
4 3621(14)(C) of the Energy Employees Occupational Ill-
5 ness Compensation Program Act of 2000, as amended by
6 subsection (b)(2), if the Director of the National Institute
7 of Occupational Safety and Health certifies with respect
8 to such facility each of the following:

9 (1) That no atomic weapons work or related
10 work has been conducted at such facility after 1976.

11 (2) That fewer than 50 percent of the total
12 number of workers engaged in atomic weapons work
13 or related work at such facility were accurately mon-
14 itored for exposure to internal and external ionizing
15 radiation during the term of their employment.

16 (3) That individual internal and external expo-
17 sure records for employees at such facility are not
18 available, or the exposure to radiation of at least 40
19 percent of the exposed workers at such facility can-
20 not be determined from the individual internal and
21 external exposure records that are available.

22 (f) SENSE OF THE SENATE.—It is the sense of the
23 Senate that all employees who are eligible to apply for ben-
24 efits under the compensation program established by the
25 Energy Employees Occupational Illness Compensation Act

1 should be treated fairly and equitably with regard to inclu-
2 sion under the special exposure cohort provisions of this
3 Act.

4 **TITLE XXXII—DEFENSE NU-**
5 **CLEAR FACILITIES SAFETY**
6 **BOARD**

7 **SEC. 3201. AUTHORIZATION.**

8 There are authorized to be appropriated for fiscal
9 year 2005, \$21,268,000 for the operation of the Defense
10 Nuclear Facilities Safety Board under chapter 21 of the
11 Atomic Energy Act of 1954 (42 U.S.C. 2286 et seq.).

12 **TITLE XXXIII—NATIONAL**
13 **DEFENSE STOCKPILE**

14 **SEC. 3301. DISPOSAL OF FERROMANGANESE.**

15 (a) **DISPOSAL AUTHORIZED.**—The Secretary of De-
16 fense may dispose of up to 50,000 tons of ferromanganese
17 from the National Defense Stockpile during fiscal year
18 2005.

19 (b) **CONTINGENT AUTHORITY FOR ADDITIONAL DIS-**
20 **POSAL.**—After the disposal of ferromanganese authorized
21 by subsection (a)—

22 (1) the Secretary may dispose of up to an addi-
23 tional 25,000 tons of ferromanganese from the Na-
24 tional Defense Stockpile before September 30, 2005;
25 and

1 (2) if the Secretary completes the disposal au-
2 thorized by paragraph (1) before September 30,
3 2005, the Secretary may dispose of up to an addi-
4 tional 25,000 tons of ferromanganese from the Na-
5 tional Defense Stockpile before that date.

6 (c) CERTIFICATION.—The Secretary may dispose of
7 ferromanganese under paragraph (1) or (2) of subsection
8 (b) only if the Secretary, with the concurrence of the Sec-
9 retary of Commerce, certifies to the congressional defense
10 committees not later than 30 days before the commence-
11 ment of disposal under the applicable paragraph that—

12 (1) the disposal of ferromanganese under such
13 paragraph is in the national interest due to extraor-
14 dinary circumstances in markets for
15 ferromanganese;

16 (2) the disposal of ferromanganese under such
17 paragraph will not cause undue harm to domestic
18 manufacturers of ferroalloys; and

19 (3) the disposal of ferromanganese under such
20 paragraph is consistent with the requirements and
21 purpose of the National Defense Stockpile under the
22 Strategic and Critical Materials Stock Piling Act (50
23 U.S.C. 98 et seq.).

24 (d) DELEGATION OF RESPONSIBILITY.—The Sec-
25 retary of Defense and the Secretary of Commerce may

1 each delegate the responsibility of such Secretary under
2 subsection (e) to an appropriate official within the Depart-
3 ment of Defense or the Department of Commerce, as the
4 case may be.

5 (e) NATIONAL DEFENSE STOCKPILE DEFINED.—In
6 this section, the term “National Defense Stockpile” means
7 the stockpile provided for in section 4 of the Strategic and
8 Critical Materials Stock Piling Act (50 U.S.C. 98c).

9 **SEC. 3302. REVISIONS TO REQUIRED RECEIPT OBJECTIVES**
10 **FOR CERTAIN PREVIOUSLY AUTHORIZED DIS-**
11 **POSALS FROM THE NATIONAL DEFENSE**
12 **STOCKPILE.**

13 Section 3303(a) of the Strom Thurmond National
14 Defense Authorization Act for Fiscal Year 1999 (50
15 U.S.C. 98d note) is amended—

16 (1) in paragraph (4), by striking “and” at the
17 end;

18 (2) in paragraph (5), by striking the period at
19 the end and inserting “; and”; and

20 (3) by adding at the end the following new
21 paragraph:

22 “(6) \$870,000,000 by the end of fiscal year
23 2014.”.

1 **SEC. 3303. PROHIBITION ON STORAGE OF MERCURY AT**
2 **CERTAIN FACILITIES.**

3 (a) PROHIBITION.—The Secretary of Defense may
4 not store mercury from the National Defense Stockpile at
5 any facility that is not owned or leased by the United
6 States.

7 (b) NATIONAL DEFENSE STOCKPILE DEFINED.—In
8 this section, the term “National Defense Stockpile” means
9 the stockpile provided for in section 4 of the Strategic and
10 Critical Materials Stock Piling Act (50 U.S.C. 98c).

11 **TITLE XXXIV—LOCAL LAW EN-**
12 **FORCEMENT ENHANCEMENT**
13 **ACT.**

14 **SEC. 3401. SHORT TITLE.**

15 This title may be cited as the “Local Law Enforce-
16 ment Enhancement Act of 2004”.

17 **SEC. 3402. FINDINGS.**

18 Congress makes the following findings:

19 (1) The incidence of violence motivated by the
20 actual or perceived race, color, religion, national ori-
21 gin, gender, sexual orientation, or disability of the
22 victim poses a serious national problem.

23 (2) Such violence disrupts the tranquility and
24 safety of communities and is deeply divisive.

25 (3) State and local authorities are now and will
26 continue to be responsible for prosecuting the over-

1 whelming majority of violent crimes in the United
2 States, including violent crimes motivated by bias.
3 These authorities can carry out their responsibilities
4 more effectively with greater Federal assistance.

5 (4) Existing Federal law is inadequate to ad-
6 dress this problem.

7 (5) The prominent characteristic of a violent
8 crime motivated by bias is that it devastates not just
9 the actual victim and the family and friends of the
10 victim, but frequently savages the community shar-
11 ing the traits that caused the victim to be selected.

12 (6) Such violence substantially affects interstate
13 commerce in many ways, including—

14 (A) by impeding the movement of members
15 of targeted groups and forcing such members to
16 move across State lines to escape the incidence
17 or risk of such violence; and

18 (B) by preventing members of targeted
19 groups from purchasing goods and services, ob-
20 taining or sustaining employment, or partici-
21 pating in other commercial activity.

22 (7) Perpetrators cross State lines to commit
23 such violence.

1 (8) Channels, facilities, and instrumentalities of
2 interstate commerce are used to facilitate the com-
3 mission of such violence.

4 (9) Such violence is committed using articles
5 that have traveled in interstate commerce.

6 (10) For generations, the institutions of slavery
7 and involuntary servitude were defined by the race,
8 color, and ancestry of those held in bondage. Slavery
9 and involuntary servitude were enforced, both prior
10 to and after the adoption of the 13th amendment to
11 the Constitution of the United States, through wide-
12 spread public and private violence directed at per-
13 sons because of their race, color, or ancestry, or per-
14 ceived race, color, or ancestry. Accordingly, elimi-
15 nating racially motivated violence is an important
16 means of eliminating, to the extent possible, the
17 badges, incidents, and relics of slavery and involun-
18 tary servitude.

19 (11) Both at the time when the 13th, 14th, and
20 15th amendments to the Constitution of the United
21 States were adopted, and continuing to date, mem-
22 bers of certain religious and national origin groups
23 were and are perceived to be distinct “races”. Thus,
24 in order to eliminate, to the extent possible, the
25 badges, incidents, and relics of slavery, it is nec-

1 essary to prohibit assaults on the basis of real or
2 perceived religions or national origins, at least to the
3 extent such religions or national origins were re-
4 garded as races at the time of the adoption of the
5 13th, 14th, and 15th amendments to the Constitu-
6 tion of the United States.

7 (12) Federal jurisdiction over certain violent
8 crimes motivated by bias enables Federal, State, and
9 local authorities to work together as partners in the
10 investigation and prosecution of such crimes.

11 (13) The problem of crimes motivated by bias
12 is sufficiently serious, widespread, and interstate in
13 nature as to warrant Federal assistance to States
14 and local jurisdictions.

15 **SEC. 3403. DEFINITION OF HATE CRIME.**

16 In this title, the term “hate crime” has the same
17 meaning as in section 280003(a) of the Violent Crime
18 Control and Law Enforcement Act of 1994 (28 U.S.C.
19 994 note).

20 **SEC. 3404. SUPPORT FOR CRIMINAL INVESTIGATIONS AND**
21 **PROSECUTIONS BY STATE AND LOCAL LAW**
22 **ENFORCEMENT OFFICIALS.**

23 (a) ASSISTANCE OTHER THAN FINANCIAL ASSIST-
24 ANCE.—

1 (1) IN GENERAL.—At the request of a law en-
2 forcement official of a State or Indian tribe, the At-
3 torney General may provide technical, forensic, pros-
4 ecutorial, or any other form of assistance in the
5 criminal investigation or prosecution of any crime
6 that—

7 (A) constitutes a crime of violence (as de-
8 fined in section 16 of title 18, United States
9 Code);

10 (B) constitutes a felony under the laws of
11 the State or Indian tribe; and

12 (C) is motivated by prejudice based on the
13 race, color, religion, national origin, gender,
14 sexual orientation, or disability of the victim, or
15 is a violation of the hate crime laws of the State
16 or Indian tribe.

17 (2) PRIORITY.—In providing assistance under
18 paragraph (1), the Attorney General shall give pri-
19 ority to crimes committed by offenders who have
20 committed crimes in more than 1 State and to rural
21 jurisdictions that have difficulty covering the ex-
22 traordinary expenses relating to the investigation or
23 prosecution of the crime.

24 (b) GRANTS.—

1 (1) IN GENERAL.—The Attorney General may
2 award grants to assist State, local, and Indian law
3 enforcement officials with the extraordinary expenses
4 associated with the investigation and prosecution of
5 hate crimes.

6 (2) OFFICE OF JUSTICE PROGRAMS.—In imple-
7 menting the grant program, the Office of Justice
8 Programs shall work closely with the funded juris-
9 dictions to ensure that the concerns and needs of all
10 affected parties, including community groups and
11 schools, colleges, and universities, are addressed
12 through the local infrastructure developed under the
13 grants.

14 (3) APPLICATION.—

15 (A) IN GENERAL.—Each State that desires
16 a grant under this subsection shall submit an
17 application to the Attorney General at such
18 time, in such manner, and accompanied by or
19 containing such information as the Attorney
20 General shall reasonably require.

21 (B) DATE FOR SUBMISSION.—Applications
22 submitted pursuant to subparagraph (A) shall
23 be submitted during the 60-day period begin-
24 ning on a date that the Attorney General shall
25 prescribe.

1 (C) REQUIREMENTS.—A State or political
2 subdivision of a State or tribal official applying
3 for assistance under this subsection shall—

4 (i) describe the extraordinary pur-
5 poses for which the grant is needed;

6 (ii) certify that the State, political
7 subdivision, or Indian tribe lacks the re-
8 sources necessary to investigate or pros-
9 ecute the hate crime;

10 (iii) demonstrate that, in developing a
11 plan to implement the grant, the State, po-
12 litical subdivision, or tribal official has con-
13 sulted and coordinated with nonprofit, non-
14 governmental victim services programs
15 that have experience in providing services
16 to victims of hate crimes; and

17 (iv) certify that any Federal funds re-
18 ceived under this subsection will be used to
19 supplement, not supplant, non-Federal
20 funds that would otherwise be available for
21 activities funded under this subsection.

22 (4) DEADLINE.—An application for a grant
23 under this subsection shall be approved or dis-
24 approved by the Attorney General not later than 30

1 business days after the date on which the Attorney
2 General receives the application.

3 (5) GRANT AMOUNT.—A grant under this sub-
4 section shall not exceed \$100,000 for any single ju-
5 risdiction within a 1 year period.

6 (6) REPORT.—Not later than December 31,
7 2005, the Attorney General shall submit to Congress
8 a report describing the applications submitted for
9 grants under this subsection, the award of such
10 grants, and the purposes for which the grant
11 amounts were expended.

12 (7) AUTHORIZATION OF APPROPRIATIONS.—
13 There is authorized to be appropriated to carry out
14 this subsection \$5,000,000 for each of fiscal years
15 2005 and 2006.

16 **SEC. 3405. GRANT PROGRAM.**

17 (a) AUTHORITY TO MAKE GRANTS.—The Office of
18 Justice Programs of the Department of Justice shall
19 award grants, in accordance with such regulations as the
20 Attorney General may prescribe, to State and local pro-
21 grams designed to combat hate crimes committed by juve-
22 niles, including programs to train local law enforcement
23 officers in identifying, investigating, prosecuting, and pre-
24 venting hate crimes.

1 (b) AUTHORIZATION OF APPROPRIATIONS.—There
 2 are authorized to be appropriated such sums as may be
 3 necessary to carry out this section.

4 **SEC. 3406. AUTHORIZATION FOR ADDITIONAL PERSONNEL**
 5 **TO ASSIST STATE AND LOCAL LAW ENFORCE-**
 6 **MENT.**

7 There are authorized to be appropriated to the De-
 8 partment of the Treasury and the Department of Justice,
 9 including the Community Relations Service, for fiscal
 10 years 2005, 2006, and 2007 such sums as are necessary
 11 to increase the number of personnel to prevent and re-
 12 spond to alleged violations of section 249 of title 18,
 13 United States Code, as added by section ____07.

14 **SEC. 3407. PROHIBITION OF CERTAIN HATE CRIME ACTS.**

15 (a) IN GENERAL.—Chapter 13 of title 18, United
 16 States Code, is amended by adding at the end the fol-
 17 lowing:

18 **“§ 249. Hate crime acts**

19 “(a) IN GENERAL.—

20 “(1) OFFENSES INVOLVING ACTUAL OR PER-
 21 CEIVED RACE, COLOR, RELIGION, OR NATIONAL ORI-
 22 GIN.—Whoever, whether or not acting under color of
 23 law, willfully causes bodily injury to any person or,
 24 through the use of fire, a firearm, or an explosive or
 25 incendiary device, attempts to cause bodily injury to

1 any person, because of the actual or perceived race,
2 color, religion, or national origin of any person—

3 “(A) shall be imprisoned not more than 10
4 years, fined in accordance with this title, or
5 both; and

6 “(B) shall be imprisoned for any term of
7 years or for life, fined in accordance with this
8 title, or both, if—

9 “(i) death results from the offense; or

10 “(ii) the offense includes kidnaping or
11 an attempt to kidnap, aggravated sexual
12 abuse or an attempt to commit aggravated
13 sexual abuse, or an attempt to kill.

14 “(2) OFFENSES INVOLVING ACTUAL OR PER-
15 CEIVED RELIGION, NATIONAL ORIGIN, GENDER, SEX-
16 UAL ORIENTATION, OR DISABILITY.—

17 “(A) IN GENERAL.—Whoever, whether or
18 not acting under color of law, in any cir-
19 cumstance described in subparagraph (B), will-
20 fully causes bodily injury to any person or,
21 through the use of fire, a firearm, or an explo-
22 sive or incendiary device, attempts to cause
23 bodily injury to any person, because of the ac-
24 tual or perceived religion, national origin, gen-

1 der, sexual orientation, or disability of any
2 person—

3 “(i) shall be imprisoned not more
4 than 10 years, fined in accordance with
5 this title, or both; and

6 “(ii) shall be imprisoned for any term
7 of years or for life, fined in accordance
8 with this title, or both, if—

9 “(I) death results from the of-
10 fense; or

11 “(II) the offense includes kid-
12 naping or an attempt to kidnap, ag-
13 gravated sexual abuse or an attempt
14 to commit aggravated sexual abuse, or
15 an attempt to kill.

16 “(B) CIRCUMSTANCES DESCRIBED.—For
17 purposes of subparagraph (A), the cir-
18 cumstances described in this subparagraph are
19 that—

20 “(i) the conduct described in subpara-
21 graph (A) occurs during the course of, or
22 as the result of, the travel of the defendant
23 or the victim—

24 “(I) across a State line or na-
25 tional border; or

1 “(II) using a channel, facility, or
2 instrumentality of interstate or for-
3 eign commerce;

4 “(ii) the defendant uses a channel, fa-
5 cility, or instrumentality of interstate or
6 foreign commerce in connection with the
7 conduct described in subparagraph (A);

8 “(iii) in connection with the conduct
9 described in subparagraph (A), the defend-
10 ant employs a firearm, explosive or incen-
11 diary device, or other weapon that has
12 traveled in interstate or foreign commerce;
13 or

14 “(iv) the conduct described in sub-
15 paragraph (A)—

16 “(I) interferes with commercial
17 or other economic activity in which
18 the victim is engaged at the time of
19 the conduct; or

20 “(II) otherwise affects interstate
21 or foreign commerce.

22 “(b) CERTIFICATION REQUIREMENT.—No prosecu-
23 tion of any offense described in this subsection may be
24 undertaken by the United States, except under the certifi-
25 cation in writing of the Attorney General, the Deputy At-

1 torney General, the Associate Attorney General, or any
2 Assistant Attorney General specially designated by the At-
3 torney General that—

4 “(1) he or she has reasonable cause to believe
5 that the actual or perceived race, color, religion, na-
6 tional origin, gender, sexual orientation, or disability
7 of any person was a motivating factor underlying the
8 alleged conduct of the defendant; and

9 “(2) he or his designee or she or her designee
10 has consulted with State or local law enforcement of-
11 ficials regarding the prosecution and determined
12 that—

13 “(A) the State does not have jurisdiction
14 or does not intend to exercise jurisdiction;

15 “(B) the State has requested that the Fed-
16 eral Government assume jurisdiction;

17 “(C) the State does not object to the Fed-
18 eral Government assuming jurisdiction; or

19 “(D) the verdict or sentence obtained pur-
20 suant to State charges left demonstratively
21 unvindicated the Federal interest in eradicating
22 bias-motivated violence.

23 “(c) DEFINITIONS.—In this section—

1 “(1) the term ‘explosive or incendiary device’
2 has the meaning given the term in section 232 of
3 this title; and

4 “(2) the term ‘firearm’ has the meaning given
5 the term in section 921(a) of this title.”.

6 (b) **TECHNICAL AND CONFORMING AMENDMENT.**—
7 The analysis for chapter 13 of title 18, United States
8 Code, is amended by adding at the end the following:

 “249. Hate crime acts.”.

9 **SEC. 3408. DUTIES OF FEDERAL SENTENCING COMMISSION.**

10 (a) **AMENDMENT OF FEDERAL SENTENCING GUIDE-**
11 **LINES.**—Pursuant to the authority provided under section
12 994 of title 28, United States Code, the United States
13 Sentencing Commission shall study the issue of adult re-
14 cruitment of juveniles to commit hate crimes and shall,
15 if appropriate, amend the Federal sentencing guidelines
16 to provide sentencing enhancements (in addition to the
17 sentencing enhancement provided for the use of a minor
18 during the commission of an offense) for adult defendants
19 who recruit juveniles to assist in the commission of hate
20 crimes.

21 (b) **CONSISTENCY WITH OTHER GUIDELINES.**—In
22 carrying out this section, the United States Sentencing
23 Commission shall—

24 (1) ensure that there is reasonable consistency
25 with other Federal sentencing guidelines; and

1 (2) avoid duplicative punishments for substan-
2 tially the same offense.

3 **SEC. 3409. STATISTICS.**

4 Subsection (b)(1) of the first section of the Hate
5 Crimes Statistics Act (28 U.S.C. 534 note) is amended
6 by inserting “gender,” after “race,”.

7 **SEC. 3410. SEVERABILITY.**

8 If any provision of this title, an amendment made by
9 this title, or the application of such provision or amend-
10 ment to any person or circumstance is held to be unconsti-
11 tutional, the remainder of this title, the amendments made
12 by this title, and the application of the provisions of such
13 to any person or circumstance shall not be affected there-
14 by.

15 **TITLE XXXV—ASSISTANCE TO**
16 **FIREFIGHTERS.**

17 **SEC. 3501. SHORT TITLE.**

18 This title may be cited as the “Assistance to Fire-
19 fighters Act of 2004”.

20 **SEC. 3502. AUTHORITY OF SECRETARY OF HOMELAND SE-**
21 **CURITY FOR FIREFIGHTER ASSISTANCE PRO-**
22 **GRAM.**

23 (a) IN GENERAL.—Subsection (b)(1) of section 33 of
24 the Federal Fire Prevention and Control Act of 1974 (15
25 U.S.C. 2229) is amended by striking “Director” in the

1 matter preceding subparagraph (A) and inserting “Sec-
2 retary of Homeland Security, in consultation with the Ad-
3 ministrator,”.

4 (b) CONFORMING AMENDMENT.—Such section is fur-
5 ther amended by striking “Director” each place it appears
6 and inserting “Secretary of Homeland Security”.

7 (c) TECHNICAL AMENDMENT.—The heading of sub-
8 section (b)(8) of such section is amended by striking “DI-
9 RECTOR” and inserting “SECRETARY”.

10 **SEC. 3503. GRANTS TO VOLUNTEER EMERGENCY MEDICAL**
11 **SERVICE ORGANIZATIONS.**

12 (a) AUTHORITY TO AWARD GRANTS TO VOLUNTEER
13 EMERGENCY MEDICAL SERVICE SQUADS.—Paragraph
14 (1)(A) of section 33(b) of the Federal Fire Prevention and
15 Control Act of 1974 (15 U.S.C. 2229(b)) is amended by
16 inserting “or to volunteer emergency medical service orga-
17 nizations” after “fire departments”.

18 (b) USE OF GRANT FUNDS.—Paragraph (3)(F) of
19 such section is amended by inserting “or volunteer emer-
20 gency medical service organizations that are not affiliated
21 with a for-profit entity” after “fire departments”.

22 (c) SPECIAL RULE FOR APPLICATIONS FOR VOLUN-
23 TEER EMERGENCY MEDICAL SERVICES.—Paragraph (5)
24 of such section is amended by adding at the end, the fol-
25 lowing new subparagraph:

1 “(C) SPECIAL RULE FOR VOLUNTEER
2 EMERGENCY MEDICAL SERVICES.—The Sec-
3 retary of Homeland Security shall permit an
4 applicant seeking grant funds for volunteer
5 emergency medical services under paragraph
6 (3)(F) to use the same application form to seek
7 grant funds for one or more of the other pur-
8 poses set out in subparagraphs (A) through (O)
9 of paragraph (3).”.

10 **SEC. 3504. GRANTS FOR AUTOMATED EXTERNAL**
11 **DEFIBRILLATOR DEVICES.**

12 Paragraph (3) of section 33(b) of the Federal Fire
13 Prevention and Control Act of 1974 (15 U.S.C. 2229(b))
14 is amended by adding at the end the following new sub-
15 paragraph:

16 “(O) To obtain automated external
17 defibrillator devices.”.

18 **SEC. 3405. CRITERIA FOR REVIEWING GRANT APPLICA-**
19 **TIONS.**

20 Paragraph (2) of section 33(b) of the Federal Fire
21 Prevention and Control Act of 1974 (15 U.S.C. 2229(b))
22 is amended to read as follows:

23 “(2) CRITERIA AND REVIEW OF APPLICA-
24 TIONS.—

25 “(A) PRELIMINARY REVIEW CRITERIA.—

1 “(i) IN GENERAL.—The Secretary of
2 Homeland Security shall establish specific
3 criteria for the preliminary review of an
4 application submitted under this section. If
5 an application does not meet such criteria,
6 the application may not receive further
7 consideration for a grant under this sec-
8 tion.

9 “(ii) ANNUAL REVIEW OF CRITERIA.—
10 Not less often than once each year, the
11 Secretary of Homeland Security, in con-
12 sultation with the Administrator, shall con-
13 vene a meeting of individuals who are
14 members of a fire service and are recog-
15 nized for expertise in firefighting or in
16 emergency medical services provided by
17 fire services, and who are not employees of
18 the Federal Government for the purpose of
19 reviewing and proposing changes to the
20 criteria established under clause (i).

21 “(B) SELECTION THROUGH REVIEW BY
22 EXPERTS.—

23 “(i) REQUIREMENT FOR REVIEW.—
24 The Secretary of Homeland Security shall
25 award grants under this section based on

1 the review of applications for such grants
2 by a panel of fire service personnel ap-
3 pointed by a national organization recog-
4 nized for expertise in the operation and ad-
5 ministration of fire services.

6 “(ii) **ROLE OF THE SECRETARY.**—The
7 Secretary of Homeland Security shall pro-
8 vide for the administration of the review
9 panel described in clause (i) and shall en-
10 sure that an individual appointed to such
11 panel is a recognized expert in firefighting,
12 medical services provided by fire services,
13 fire prevention, or research on firefighter
14 safety.”.

15 **SEC. 3506. FINANCIAL ASSISTANCE FOR FIREFIGHTER**
16 **SAFETY PROGRAMS.**

17 (a) **AUTHORITY.**—Paragraph (1)(B) of section 33(b)
18 of the Federal Fire Prevention and Control Act of 1974
19 (15 U.S.C. 2229(b)) is amended by inserting “and fire-
20 fighter safety” after “prevention”.

21 (b) **EXPANSION OF EXISTING PROGRAM.**—

22 (1) **FIREFIGHTER SAFETY ASSISTANCE.**—Para-
23 graph (4) of such section is amended—

24 (A) in subparagraph (A)(ii), by striking
25 “organizations that are recognized” and all that

1 follows and inserting “organizations eligible
2 under subparagraph (B) for the purposes de-
3 scribed in subparagraph (C).”; and

4 (B) by striking subparagraph (B), and in-
5 serting the following new subparagraphs:

6 “(B) ELIGIBILITY FOR ASSISTANCE.—An
7 organization may be eligible for assistance
8 under subparagraph (A)(ii), if such organiza-
9 tion is a national, State, local, or community
10 organization that is not a fire service and that
11 is recognized for experience and expertise with
12 respect to programs and activities that
13 promote—

14 “(i) fire prevention or fire safety; or

15 “(ii) the health and safety of fire-
16 fighting personnel.

17 “(C) USE OF FUNDS.—Assistance provided
18 under subparagraph (A)(ii) shall be used—

19 “(i) to carry out fire prevention pro-
20 grams; or

21 “(ii) to fund research to improve the
22 health and safety of firefighting personnel.

23 “(D) PRIORITY.—In selecting organiza-
24 tions described in subparagraph (B) to receive

1 assistance under this paragraph, the Secretary
2 of Homeland Security shall give priority—

3 “(i) to organizations that focus on
4 preventing injuries from fire to members of
5 groups at high risk of such injuries, with
6 an emphasis on children; and

7 “(ii) to organizations that focus on re-
8 searching methods to improve the health
9 and safety of firefighting personnel.

10 “(E) ALLOCATION OF FUNDS.—Not less
11 than 66 percent of the total amount of funds
12 made available in a fiscal year to carry out this
13 paragraph shall be made available of the pro-
14 grams described in subparagraph (A)(ii).”.

15 (2) CONFORMING AMENDMENT.—The heading
16 of such paragraph is amended to read as follows:

17 “(4) FIRE PREVENTION AND FIREFIGHTER
18 SAFETY PROGRAMS.—”.

19 (c) AVAILABILITY OF FUNDS FOR FIRE PREVENTION
20 AND FIREFIGHTER SAFETY PROGRAMS.—Paragraph
21 (4)(A) of such section, as amended by subsection (b), is
22 further amended in the matter preceding clause (i), by
23 striking “5 percent” and inserting “6 percent”.

1 **SEC. 3507. ASSISTANCE FOR APPLICATIONS.**

2 Paragraph (5) of section 33(b) of the Federal Fire
3 Prevention and Control Act of 1974 (15 U.S.C. 2229(b)),
4 as amended by section 3(e), is further amended by adding
5 at the end the following new subparagraph:

6 “(D) ASSISTANCE TO PREPARE AN APPLI-
7 CATION.—The Secretary of Homeland Security
8 shall provide assistance with the preparation of
9 applications for grants under this section.”.

10 **SEC. 3508. REDUCED REQUIREMENTS FOR MATCHING**
11 **FUNDS.**

12 (a) AMOUNT REQUIRED.—Paragraph (6) of section
13 33(b) of the Federal Fire Prevention and Control Act of
14 1974 (15 U.S.C. 2229(b)) is amended by striking sub-
15 paragraphs (A) and (B) and inserting the following:

16 “(A) IN GENERAL.—Subject to subpara-
17 graphs (B) and (C), the Secretary of Homeland
18 Security may provide assistance under this sub-
19 section only if the applicant for such assistance
20 agrees to match 20 percent of such assistance
21 for any fiscal year with an equal amount of
22 non-Federal funds.

23 “(B) REQUIREMENT FOR SMALL COMMU-
24 NITY ORGANIZATIONS.—In the case of an appli-
25 cant whose personnel—

1 “(i) serve jurisdictions of 50,000 or
2 fewer residents, the percent applied under
3 the matching requirement of subparagraph
4 (A) shall be 10 percent; or

5 “(ii) serve jurisdictions of 20,000 or
6 fewer residents, the percent applied under
7 the matching requirement of subparagraph
8 (A) shall be 5 percent.”.

9 (b) EXCEPTION.—Such paragraph, as amended by
10 subsection (a), is further amended by adding at the end
11 the following new subparagraph:

12 “(C) EXCEPTION.—No matching funds
13 may be required under this subsection for as-
14 sistance provided under subparagraph (A)(ii) of
15 paragraph (4) to an organization described in
16 subparagraph (B) of such paragraph.”.

17 (c) SPECIAL RULE FOR REQUESTS FOR AUTOMATED
18 EXTERNAL DEFIBRILLATOR DEVICES.—Section 33(b) of
19 such Act is further amended by adding at the end the fol-
20 lowing new paragraph:

21 “(13) SPECIAL RULES FOR GRANTS FOR AUTO-
22 MATED EXTERNAL DEFIBRILLATOR DEVICES.—

23 “(A) LIMITATIONS.—The Secretary of
24 Homeland Security shall reduce the percentage

1 of non-Federal matching funds for a grant as
2 described in subparagraph (B) if—

3 “(i) the applicant is requesting grant
4 funds to obtain one or more automated ex-
5 ternal defibrillator devices, as authorized
6 by paragraph (3)(O);

7 “(ii) the award of such grant will re-
8 sult in the applicant possessing exactly one
9 such device for each first-due emergency
10 vehicle operated by the applicant;

11 “(iii) the applicant certifies to the
12 Secretary of Homeland Security that the
13 applicant possesses, at the time such appli-
14 cation is filed, a number of such devices
15 that is less than the number of first-due
16 emergency vehicles operated by the appli-
17 cant and that the applicant is capable of
18 storing, in a manner conducive to rapid
19 use, such devices on each such vehicle; and

20 “(iv) the applicant has not previously
21 received a grant under this subsection to
22 obtain such devices.

23 “(B) MATCHING REQUIREMENTS.—If an
24 applicant meets the criteria set out in clauses
25 (i), (ii), (iii), and (iv) of subparagraph (A), the

1 Secretary of Homeland Security shall reduce
2 the percentage of non-Federal matching funds
3 required by paragraph (6) by 2 percentage
4 points for all assistance requested in the appli-
5 cation submitted by such applicant.

6 “(C) FIRST-DUE DEFINED.—In this para-
7 graph, the term ‘first-due’ means the fire-
8 fighting and emergency medical services vehi-
9 cles that are utilized by a fire service for imme-
10 diate response to an emergency situation.”.

11 **SEC. 3509. GRANT RECIPIENT LIMITATIONS.**

12 (a) LIMITATIONS ON GRANT AMOUNTS.—Subpara-
13 graph (A) of section 33(b)(10) of the Federal Fire Preven-
14 tion and Control Act of 1974 (15 U.S.C. 2229(b)(10)) is
15 amended to read as follows:

16 “(A) LIMITATIONS ON GRANT AMOUNT.—

17 “(i) GENERAL LIMITATION.—Subject
18 to clause (ii), a recipient of assistance
19 under this section may not receive in a fis-
20 cal year an amount of such assistance that
21 exceeds the greater of \$2,250,000 or the
22 amount equal to 0.5 percent of the total
23 amount of funds appropriated for such as-
24 sistance for such fiscal year.

1 “(ii) LIMITATIONS ON BASIS OF POPU-
2 LATION.—Subject to clause (iii), a recipi-
3 ent of assistance under this section that
4 serves a jurisdiction of less than 1,000,000
5 individuals may not receive more than
6 \$1,500,000 of such assistance for a fiscal
7 year, except that such a recipient that
8 serves a jurisdiction of less than 500,000
9 individuals may not receive more than
10 \$1,000,000 of such assistance during a fis-
11 cal year.

12 “(iii) WAIVER.—With respect to as-
13 sistance provided in a fiscal year before fis-
14 cal year 2007, the Secretary of Homeland
15 Security, in consultation with the Adminis-
16 trator, may waive the limitations set out in
17 clause (ii) if the Secretary determines that
18 a waiver is warranted by an extraordinary
19 need for assistance for fire suppression ac-
20 tivities by a jurisdiction, whether such need
21 is caused by the likelihood of terrorist at-
22 tack, natural disaster, destructive fires oc-
23 curring over a large geographic area, or
24 some other cause.”.

1 (b) LIMITATIONS ON GRANTS FOR VOLUNTEER
 2 EMERGENCY MEDICAL SERVICES.—Such section, as
 3 amended by subsection (a), is further amended by adding
 4 at the end the following new subparagraph:

5 “(C) LIMITATIONS ON EXPENDITURES FOR
 6 VOLUNTEER EMERGENCY MEDICAL SERVICES.—
 7 Not more than 3.5 percent of the funds appro-
 8 priated to provide grants under this section for
 9 a fiscal year may be awarded to volunteer emer-
 10 gency medical service organizations.”.

11 **SEC. 3510. OTHER CONSIDERATIONS.**

12 Section 33(b) of the Federal Fire Prevention and
 13 Control Act of 1974 (15 U.S.C. 2229(b)), as amended by
 14 section 8, is amended by adding at the end the following
 15 new paragraph:

16 “(14) OTHER CONSIDERATIONS.—In providing
 17 assistance under this section, the Secretary of
 18 Homeland Security shall—

19 “(A) consider the extent to which the re-
 20 cipient of such assistance is able to enhance the
 21 daily operations of a fire service and to improve
 22 the protection of people and property from fire;
 23 and

24 “(B) ensure that such assistance awarded
 25 to a volunteer emergency medical service orga-

1 nization will not be used to provide emergency
2 medical services in a geographic area if such
3 services are adequately provided by a fire serv-
4 ice in such area.”.

5 **SEC. 3511. REPORTS TO CONGRESS.**

6 (a) STUDY AND REPORT ON ASSISTANCE TO FIRE-
7 FIGHTERS.—

8 (1) STUDY.—The Secretary, in conjunction with
9 the National Fire Protection Association, shall con-
10 duct a study—

11 (A) to assess the types of activities that
12 are carried out by fire services;

13 (B) to determine whether the level of Fed-
14 eral funding made available to fire services is
15 adequate;

16 (C) to assess categories of services, includ-
17 ing emergency medical services, that are not
18 adequately provided by fire services on either
19 the national or State level; and

20 (D) to measure the effect, if any, of the as-
21 sistance provided under section 33 of the Fed-
22 eral Fire Prevention and Control Act of 1974
23 (15 U.S.C. 2229) on the needs of fire services
24 identified in the report submitted to Congress
25 under section 1701(b) of the Floyd D. Spence

1 National Defense Authorization Act for Fiscal
2 Year 2001 (as enacted into law by Public Law
3 106–398; 114 Stat. 1654A–363).

4 (2) REPORT.—Not later than 18 months after
5 the date of the enactment of this Act, the Secretary
6 shall submit to Congress a report on the findings of
7 the study described in paragraph (1).

8 (b) REPORT BY GAO.—Not later than 18 months
9 after the date of the enactment of this Act, the Comp-
10 troller General of the United States shall submit to Con-
11 gress a report on—

12 (1) the administration of the assistance pro-
13 vided under section 33 of the Federal Fire Preven-
14 tion and Control Act of 1974 (15 U.S.C. 2229); and

15 (2) the success of the Secretary in admin-
16 istering the Federal Emergency Management Agen-
17 cy.

18 (c) REPORT ON WAIVER OF AMOUNT LIMITA-
19 TIONS.—Not later than 18 months after the date of the
20 enactment of this Act, the Secretary shall submit to Con-
21 gress a report on the instances, if any, of the use of the
22 waiver authority set out in section 33(b)(10)(A)(iii) of the
23 Federal Fire Prevention and Control Act of 1974 (15
24 U.S.C. 2229(b)(10)(A)(iii)), as added by section 9.

25 (d) DEFINITIONS.—In this section:

1 (1) FIRE SERVICE.—The term “fire service”
2 has the meaning given that term in section 4 of the
3 Federal Fire Prevention and Control Act of 1974
4 (15 U.S.C. 2203).

5 (2) SECRETARY.—The term “Secretary” means
6 the Secretary of Homeland Security.

7 **SEC. 3512. TECHNICAL CORRECTIONS.**

8 (a) REPEAL OF DUPLICATIVE DEFINITION.—Sub-
9 section (d) of section 33 of the Federal Fire Prevention
10 and Control Act of 1974 (15 U.S.C. 2229) is repealed.

11 (b) REDESIGNATIONS NECESSITATED BY DUPLICA-
12 TIVE NUMBERING.—The sections 33 and 34 of the Fed-
13 eral Fire Prevention and Control Act of 1974 (15 U.S.C.
14 2230 and 2231) that were added by sections 105 and 106
15 of Public Law 106–503 (114 Stat. 2301) are redesignated
16 as sections 34 and 35, respectively.

17 **SEC. 3513. AUTHORIZATION OF APPROPRIATIONS.**

18 (a) FIREFIGHTER ASSISTANCE PROGRAMS.—Section
19 33(e) of the Federal Fire Prevention and Control Act of
20 1974 (15 U.S.C. 2229(e)) is amended by striking the first
21 sentence and inserting “There are authorized to be appro-
22 priated for the purposes of this section \$900,000,000 for
23 fiscal year 2005, \$950,000,000 for fiscal year 2006, and
24 \$1,000,000,000 for each of the fiscal years 2007 through
25 2010.”.

1 (b) STUDY ON ASSISTANCE TO FIREFIGHTERS.—
2 There are authorized to be appropriated to the Secretary
3 of Homeland Security \$300,000 for fiscal year 2005 to
4 carry out the requirements of section 4011(a).

Passed the Senate June 23 (legislative day, June
22), 2004.

Attest:

Secretary.

108TH CONGRESS
2^D SESSION

S. 2403

AN ACT

To authorize appropriations for fiscal year 2005 for defense activities of the Department of Energy, and for other purposes.