

109TH CONGRESS
2^D SESSION

S. 4103

To prevent nuclear terrorism, and for other purposes.

IN THE SENATE OF THE UNITED STATES

DECEMBER 7, 2006

Mrs. CLINTON introduced the following bill; which was read twice and referred to the Committee on Armed Services

A BILL

To prevent nuclear terrorism, 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 “Nuclear Terrorism
5 Prevention Act of 2006”.

6 **SEC. 2. DEFINITIONS.**

7 In this Act:

8 (1) The term “Convention on the Physical Pro-
9 tection of Nuclear Material” means the Convention
10 on the Physical Protection of Nuclear Material,
11 signed at New York and Vienna March 3, 1980.

1 (2) The term “design-basis threat” means a
2 profile of the type, composition, and capabilities of
3 an adversary.

4 (3) The term “formula quantities of strategic
5 special nuclear material” means uranium-235 (con-
6 tained in uranium enriched to 20 percent or more in
7 the U-235 isotope), uranium-233, or plutonium in
8 any combination in a total quantity of 5,000 grams
9 or more computed by the formula, grams = (grams
10 contained U-235) + 2.5 (grams U-233 + grams
11 plutonium), as set forth in the definitions of “for-
12 mula quantities” and “strategic special nuclear ma-
13 terial” in section 73.2 of title 10, Code of Federal
14 Regulations.

15 (4) The term “Nuclear Non-Proliferation Trea-
16 ty” means the Treaty on the Non-Proliferation of
17 Nuclear Weapons, done at Washington, London, and
18 Moscow July 1, 1968, and entered into force March
19 5, 1970 (21 UST 483).

20 (5) The term “nuclear weapon” means any de-
21 vice utilizing atomic energy, exclusive of the means
22 for transporting or propelling the device (where such
23 means is a separable and divisible part of the de-
24 vice), the principal purpose of which is for use as,

1 or for the development of, a weapon, a weapon pro-
2 totype, or a weapon test device.

3 **SEC. 3. FINDINGS.**

4 Congress makes the following findings:

5 (1) The possibility that terrorists may acquire
6 and use a nuclear weapon against the United States
7 is an urgent threat to the security of our nation and
8 the world.

9 (2) The United States must take a comprehen-
10 sive approach to reducing this danger, including ad-
11 ditional efforts to identify and eliminate terrorist
12 groups that aim to acquire nuclear weapons, to en-
13 sure that nuclear weapons and formula quantities of
14 strategic special nuclear material around the world
15 are secure and accounted for to a degree sufficient
16 to defeat the threat that terrorists and criminals
17 have shown they can pose, and to increase the ability
18 to find and stop terrorist efforts to manufacture nu-
19 clear explosives or to transport nuclear explosives
20 and materials anywhere in the world.

21 (3) Within such a comprehensive strategy, a
22 high priority must be placed on ensuring that all nu-
23 clear weapons and formula quantities of strategic
24 special nuclear material worldwide are secure and
25 accounted for.

1 (4) Existing programs intended to secure, mon-
2 itor, and reduce nuclear stockpiles, redirect nuclear
3 scientists, and interdict nuclear smuggling have
4 made substantial progress, but additional efforts are
5 needed to reduce the threat of nuclear terrorism as
6 much as possible.

7 (5) The September 2006 “National Strategy for
8 Combating Terrorism” issued by the White House
9 states, “Weapons of mass destruction in the hands
10 of terrorists is one of the gravest threats we face.”

11 (6) United Nations Secretary-General Kofi
12 Annan has said that a nuclear terror attack “would
13 not only cause widespread death and destruction,
14 but would stagger the world economy and thrust
15 tens of millions of people into dire poverty”.

16 (7) United Nations Security Council Resolution
17 1540 (2004) reaffirms the need to combat by all
18 means, in accordance with the Charter of the United
19 Nations, threats to international peace and security
20 caused by terrorist acts and directs that all coun-
21 tries, in accordance with their national procedures,
22 shall adopt and enforce effective laws that prohibit
23 any non-state actor from manufacturing, acquiring,
24 possessing, developing, transporting, transferring, or
25 using nuclear, chemical, or biological weapons and

1 their means of delivery, in particular for terrorist
2 purposes, and to prohibit attempts to engage in any
3 of the foregoing activities, participate in them as an
4 accomplice, or assist or finance them.

5 (8) The Director General of the International
6 Atomic Energy Agency, Dr. Mohammed El Baradei,
7 has said that it is a “race against time” to prevent
8 a terrorist attack using a nuclear weapon.

9 **SEC. 4. SENSE OF CONGRESS ON THE PREVENTION OF NU-**
10 **CLEAR TERRORISM.**

11 It is the sense of Congress that—

12 (1) the threat of nuclear terror is the most hor-
13 rific threat the United States faces;

14 (2) the President should make the prevention of
15 a nuclear terrorist attack on the United States of
16 the highest priority;

17 (3) the President should accelerate programs,
18 requesting additional funding as appropriate, to pre-
19 vent nuclear terrorism, including combating nuclear
20 smuggling and securing formula quantities of stra-
21 tegic special nuclear material wherever they may be;

22 (4) the International Atomic Energy Agency
23 plays a vital role in coordinating international efforts
24 to protect nuclear materials and combat nuclear

1 smuggling and should be funded appropriately to
 2 fulfill that role; and

3 (5) legislation sponsored by Senator Richard
 4 Lugar, Senator Pete Domenici, and former Senator
 5 Sam Nunn has resulted in groundbreaking programs
 6 to ensure that nuclear weapons do not fall into the
 7 hands of terrorists.

8 **SEC. 5. SENIOR ADVISOR TO THE PRESIDENT FOR THE**
 9 **PREVENTION OF NUCLEAR TERRORISM.**

10 (a) IN GENERAL.—Title I of the National Security
 11 Act of 1947 (50 U.S.C. 402 et seq.) is amended by insert-
 12 ing after section 101A the following new section:

13 “SENIOR ADVISOR TO THE PRESIDENT FOR THE
 14 PREVENTION OF NUCLEAR TERRORISM

15 “SEC. 101B. (a) IN GENERAL.—There is a Senior
 16 Advisor to the President for the Prevention of Nuclear
 17 Terrorism reporting through the National Security Advi-
 18 sor, who shall be appointed by the President by and with
 19 the advice and consent of the Senate.

20 “(b) MEMBERSHIP ON NATIONAL SECURITY COUN-
 21 CIL.—The Senior Advisor to the President for the Preven-
 22 tion of Nuclear Terrorism is a member of the National
 23 Security Council.

24 “(c) DUTIES.—The Senior Advisor to the President
 25 shall be responsible on a full-time basis for—

1 “(1) advising the President on all matters relat-
2 ing to nuclear terrorism;

3 “(2) formulating United States policies for pre-
4 venting nuclear terrorism, including—

5 “(A) developing plans, including measur-
6 able milestones and targets to which depart-
7 ments and agencies can be held accountable, to
8 better prevent nuclear terrorism;

9 “(B) finding and fixing gaps, duplication,
10 and inefficiencies in existing programs and tak-
11 ing other steps to overcome obstacles to acceler-
12 ated progress to prevent nuclear terrorism;

13 “(C) overseeing the development, by the
14 relevant Federal departments and agencies, of
15 accelerated and strengthened program imple-
16 mentation strategies and diplomatic strategies;

17 “(D) overseeing the development of budget
18 requests for these programs and ensuring that
19 they adequately reflect the priority of the prob-
20 lem; and

21 “(E) identifying such new initiatives as
22 may be needed; and

23 “(3) coordinating United States efforts to im-
24 plement such policies.

1 “(d) STAFF.—The Senior Advisor to the President
2 may appoint and terminate such personnel as may be nec-
3 essary to enable the Senior Advisor to perform his or her
4 duties.”.

5 (b) CONFORMING AMENDMENT.—Section 101(a) of
6 such Act (50 U.S.C. 402(a)) is amended—

7 (1) in paragraph (6), by striking “and”;

8 (2) by redesignating paragraph (7) as para-
9 graph (8); and

10 (3) by inserting after paragraph (6) the fol-
11 lowing new paragraph:

12 “(7) the Senior Advisor to the President for the
13 Prevention of Nuclear Terrorism; and”.

14 **SEC. 6. ANNUAL REPORT.**

15 (a) IN GENERAL.—Not later than September 1 of
16 each year, the President, in consultation with the Senior
17 Advisor to the President for the Prevention of Nuclear
18 Terrorism, shall submit to Congress a report on the secu-
19 rity of formula quantities of strategic special nuclear ma-
20 terial.

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

23 (1) A section on the program for the removal
24 and security of nuclear weapons, formula quantities
25 of strategic special nuclear material and radiological

1 materials established under section 3132(b) of the
2 Ronald W. Reagan National Defense Authorization
3 Act for Fiscal Year 2005 (50 U.S.C. 2569(b)) in-
4 cluding—

5 (A) a survey by the Senior Advisor to the
6 President of the facilities and sites worldwide
7 that contain nuclear weapons, formula quan-
8 tities of strategic special nuclear material, radi-
9 ological materials, or related equipment;

10 (B) a list of sites determined by the Senior
11 Advisor to the President to be of the highest
12 priority, taking into account risk of theft from
13 such sites, for removal or security of prolifera-
14 tion-attractive fissile materials, nuclear weap-
15 ons, formula quantities of strategic special nu-
16 clear material, radiological materials, or related
17 equipment, organized by level of priority;

18 (C) a plan, including technical, diplomatic,
19 and other means for the securing or removal of
20 nuclear weapons, formula quantities of strategic
21 special nuclear material, radiological materials,
22 and related equipment at vulnerable facilities
23 and sites worldwide, including measurable mile-
24 stones, metrics, and estimated costs for the im-
25 plementation of the plan; and

1 (D) a description of the efforts of the gov-
2 ernments of such countries to secure such ma-
3 terial.

4 (2) A section on efforts to establish and imple-
5 ment the security standard and related policies de-
6 scribed under section 7.

7 (c) FORM.—The report may be submitted in classi-
8 fied form but shall include a detailed unclassified sum-
9 mary.

10 **SEC. 7. MINIMUM SECURITY STANDARD FOR NUCLEAR**
11 **WEAPONS AND FORMULA QUANTITIES OF**
12 **STRATEGIC SPECIAL NUCLEAR MATERIALS.**

13 (a) POLICY.—It is the policy of the United States to
14 take all possible steps to ensure, as rapidly as possible,
15 that all nuclear weapons and formula quantities of stra-
16 tegic special nuclear materials are secure and accounted
17 for.

18 (b) INTERNATIONAL NUCLEAR SECURITY STAND-
19 ARD.—In furtherance of the policy described in subsection
20 (a), and consistent with the requirement for “appropriate
21 effective” physical protection contained in United Nations
22 Security Council Resolution 1540 (2004), as well as the
23 Nuclear Non-Proliferation Treaty and the Convention on
24 the Physical Protection of Nuclear Material, the Presi-
25 dent, acting through the Senior Advisor to the President

1 for the Prevention of Nuclear Terrorism, shall seek the
2 broadest possible international agreement on a global
3 standard for nuclear security that—

4 (1) ensures that nuclear weapons and formula
5 quantities of strategic special nuclear material are
6 effectively protected against the threats posed by
7 terrorists and criminals;

8 (2) takes into account the limitations of equip-
9 ment and human performance; and

10 (3) is verifiable, providing confidence that the
11 needed measures have in fact been implemented.

12 (c) INTERNATIONAL EFFORTS.—In furtherance of
13 the policy described in subsection (a), the President, act-
14 ing through the Senior Advisor to the President for the
15 Prevention of Nuclear Terrorism, shall—

16 (1) work with other countries and the Inter-
17 national Atomic Energy Agency to assist, and if nec-
18 essary convince, the governments of any and all
19 countries where nuclear weapons or formula quan-
20 tities of strategic special nuclear material exist to
21 ensure that security is upgraded to meet the stand-
22 ard described in subsection (b) as rapidly as possible
23 and in such a manner that these measures are sus-
24 tained after United States and other international
25 assistance ends;

1 (2) ensure that United States financial and
2 technical assistance is available to countries where
3 the provision of such assistance would accelerate the
4 implementation of, or improve the effectiveness of,
5 such security upgrades; and

6 (3) seek to work with the governments of other
7 countries to ensure that effective nuclear security
8 rules, accompanied by effective regulation and en-
9 forcement, are put in place concerning all nuclear
10 weapons and formula quantities of strategic special
11 nuclear materials worldwide, including the imple-
12 mentation of a regulatory design-basis threat (DBT)
13 model in countries with nuclear weapons or formula
14 quantities of strategic special nuclear materials that
15 is designed to defeat the threats posed by terrorists
16 and criminals.

17 **SEC. 8. AUTHORIZATION OF APPROPRIATIONS.**

18 There is authorized to be appropriated to the Sec-
19 retary of Energy for fiscal year 2008, \$50,000,000—

20 (1) to increase international participation in ef-
21 forts to convert nuclear facilities that operate using
22 highly enriched uranium to operation using low en-
23 riched uranium; and

- 1 (2) to remove highly enriched uranium from
- 2 such facilities.

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