

S 2517

Department of Energy National Security Act for Fiscal Year 2003

Congress: 107 (2001–2003, Ended)

Chamber: Senate

Policy Area: Armed Forces and National Security

Introduced: May 15, 2002

Current Status: Held at the desk.

Latest Action: Held at the desk. (Jul 8, 2002)

Official Text: <https://www.congress.gov/bill/107th-congress/senate-bill/2517>

Sponsor

Name: Sen. Levin, Carl [D-MI]

Party: Democratic • **State:** MI • **Chamber:** Senate

Cosponsors

No cosponsors are listed for this bill.

Committee Activity

Committee	Chamber	Activity	Date
Armed Services Committee	Senate	Reported Original Measure	May 15, 2002

Subjects & Policy Tags

Policy Area:

Armed Forces and National Security

Related Bills

Bill	Relationship	Last Action
107 HR 4546	Related bill	Dec 2, 2002: Became Public Law No: 107-314.
107 S 2514	Related bill	Jul 8, 2002: Held at the desk.

Department of Energy National Security Act for Fiscal Year 2003 -**Title XXXI(sic): Department of Energy National Security Programs - Subtitle A: National Security Programs Authorizations** - Authorizes appropriations to the Department of Energy (DOE) for FY 2003 for: (1) activities of the National Nuclear Security Administration in carrying out programs necessary for national security, with specified allocations for weapons activities, defense nuclear nonproliferation activities, naval reactors, and the Office of the Administrator for Nuclear Security; and (2) environmental restoration and waste management activities in carrying out national security programs, with specified allocations for defense environmental management, other defense activities, defense environmental management privatization, and defense nuclear waste disposal.

Subtitle B: Recurring General Provisions - Prohibits the use of funds appropriated pursuant to this subtitle for: (1) the cost of a program exceeding 115 percent of, or \$5 million more than, the amount authorized; or (2) programs which have not been presented to, or requested of, Congress until the Secretary of Energy (Secretary) transmits to the defense and appropriations committees a full statement of the action proposed and 30 days have since expired.

(Sec. 3122) Authorizes the Secretary to carry out minor construction projects using operation and maintenance funds or facilities infrastructure funds authorized by this title.

(Sec. 3123) Places certain funding limits for general plant and construction projects of DOE. Requires congressional reports when amounts exceed such limits.

(Sec. 3124) Authorizes the Secretary to transfer DOE-authorized funds: (1) to other Federal agencies for the performance of work for which such funds were authorized; or (2) between authorizations within DOE, to be merged with and available for the same purposes. Requires notification to the defense committees of any such transfers.

(Sec. 3125) Directs the Secretary, before submitting a funding request for a construction project in support of a DOE national security program, to complete a conceptual design for such project. Requires a separate funding request for designs for which the estimated cost exceeds \$3 million. Authorizes the Secretary to carry out construction design services in connection with any proposed construction project if the total estimated cost for the design does not exceed \$600,000. Requires specific authorization by law for designs exceeding such amount.

(Sec. 3126) Authorizes the use of DOE funds for planning, design, or construction activities for any DOE national security program that must proceed expeditiously in order to protect public health and safety, meet the needs of national defense, or protect property. Requires the Secretary to report to the defense and appropriations committees when funds are so used.

(Sec. 3129) Directs the Secretary, during FY 2003, to empower each DOE field office manager with the authority to transfer defense environmental management funds from a program or project under such office's jurisdiction to another program or project in order to address a risk to health, safety, or the environment or to assure the most efficient use of such funds at that field office. Limits any such transfer to \$5 million. Directs the Secretary to notify Congress within 30 days after any such transfer.

(Sec. 3130) Directs the Secretary, during FY 2003, to empower each DOE field office manager with the authority to transfer weapons activities funds from a program or project of that office to another such program or project when such transfer is necessary to address a risk to health, safety, or the environment or will result in cost savings and efficiencies. Limits any such transfer to \$5 million. Directs the Secretary to notify Congress within 30 days after any such transfer.

Subtitle C: Program Authorizations, Restrictions, and Limitations - Prohibits funds authorized to DOE under this Act for environmental management cleanup reform activities from being obligated or expended until the Secretary publishes in the Federal Register, and submits to the defense and appropriations committees, a report setting forth project selection and priority criteria, or notifies such committees that such criteria will not be established. Outlines provisions for funding availability if such criteria are not established.

(Sec. 3132) Directs the Secretary of Defense to report to the defense and appropriations committees on the Robust Nuclear Earth Penetrator.

(Sec. 3133) Makes DOE funds authorized for the National Nuclear Security Administration available to the Deputy Administrator for Nuclear Security for Defense Programs for the development and implementation before the end of FY 2003 of a database for all national security laboratories to track the notification and resolution phases of Significant Finding Investigations.

(Sec. 3134) Requires that, in any fiscal year after 2002 in which the Secretary plans to carry out activities relating to the development of a new or modified nuclear weapon, the Secretary shall specifically request funds for such activities in the budget submitted for that fiscal year. Provides exceptions: (1) for the nuclear weapons life extension program; (2) to modify an existing nuclear weapon solely to address safety or reliability concerns; or (3) to address proliferation concerns.

(Sec. 3135) Amends the Department of Energy Organization Act to prohibit DOE amounts for national security programs and activities or activities under the Atomic Energy Act of 1954 from being obligated or expended unless funds therefor have been specifically authorized by law.

(Sec. 3136) Prohibits the obligation or expenditure of more than \$100 million of the amounts authorized for the elimination of weapons grade plutonium production until 30 days after the Administrator for Nuclear Security submits to the defense and appropriations committees a copy of a United States-Russian Federation agreement to shut down the three plutonium-producing reactors in Russia.

Subtitle D: Proliferation Matters - Transfers from the Department of Defense to DOE the program to eliminate weapons grade plutonium production in Russia. Transfers associated funds, making such funds available for related DOE purposes.

(Sec. 3152) Amends the National Defense Authorization Act for Fiscal Year 1996 to repeal required reports on the obligation of funds for programs on fissile materials in Russia.

(Sec. 3153) Amends the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 to include within required reports on the status of nuclear materials protection, control, and accounting programs information on all countries having such materials (currently only Russia).

(Sec. 3154) Amends the Defense Against Weapons of Mass Destruction Act of 1996 to extend through FY 2013 a program for testing and improving the response of Federal, State, and local agencies to emergencies involving biological and chemical weapons and related materials.

(Sec. 3155) Directs the Administrator for Nuclear Security to carry out a program on research and technology for protection from nuclear or radiological terrorism, including technology for the detection, identification, assessment, control, disposition, consequences management, and consequences mitigation of the dispersal of radiological materials

or nuclear terrorism. Requires the technology and information developed to be incorporated into the program on responses to emergencies involving nuclear and radiological weapons carried out under the above Act. Provides funding.

(Sec. 3156) Authorizes the Secretary to expand the International Materials Protection, Control, and Accounting program of DOE to encompass countries outside the Russian Federation and the independent states of the former Soviet Union. Requires the Secretary to notify Congress within 30 days after obligating funds for such purpose. Authorizes the Secretary, as part of such program, to provide technical assistance to the Secretary of State to assist other nuclear weapons states to review and improve their nuclear materials security programs.

Directs the Secretary to: (1) develop a plan to accelerate the conversion or return to the country of origin of all weapons-usable nuclear materials located in research reactors and other facilities outside such country; (2) establish within the above program a program on the protection, control, and accounting of materials usable in radiological dispersal devices; (3) require the Office of International Materials Protection, Control, and Accounting to conduct a study to determine the feasibility and advisability of developing a program to secure radiological materials outside the United States that pose a threat to U.S. national security; and (4) report such study's results to Congress.

Expresses the sense of Congress that the President should encourage amendment of the Convention on the Physical Protection of Nuclear Materials in order to provide that the Convention shall: (1) apply to both domestic and international use and transport of nuclear materials; (2) incorporate fundamental practices for the physical protection of such materials; and (3) address protection against sabotage involving nuclear materials. Earmarks funds for such purpose.

(Sec.3157) Expresses the sense of Congress that the Secretary should develop a comprehensive program of activities to encourage all countries with nuclear materials to adhere to, or adopt standards equivalent to, the International Atomic Energy Agency standard on the Physical Protection of Nuclear Materials and Nuclear Facilities relating to the security of stockpiles of highly enriched uranium and plutonium. Authorizes the Secretary to: (1) carry out a program to pursue with the Russian Federation and any other nation that possesses highly enriched uranium options for blending such uranium so that its concentration of U-235 is below 20 percent; (2) provide financial and other incentives for the removal of all highly enriched uranium from any particular facility in the Russian Federation if such incentives will facilitate the consolidation of such uranium in the Russian Federation to the best-secured facilities; (3) purchase from another nation, and transfer to and store in the United States, highly enriched uranium or weapons-grade plutonium; (4) encourage other nations with such uranium to transfer it to the Russian Federation for disposition; and (5) enter into contracts with the Russian Federation for blending and storing highly enriched uranium in the Russian Federation. Limits the release for sale of such blended uranium. Requires the Secretary to report to Congress on the status of the standards adoption program.

(Sec. 3158) Encourages the Secretary to continue to support the Secretary of State in negotiations with the Russian Ministry of Atomic Energy to finalize a specified agreement between the two countries regarding the plutonium disposition program of the Russian Federation. Authorizes the Secretary to consider providing additional funds in order to reach a successful agreement.

(Sec. 3159) Directs the Secretary to report to Congress on options for an international program to develop strengthened security for all nuclear materials and safety and security for current nuclear operations. Requires the Director of the Office of Nuclear Energy Science and Technology to pursue with the Russian Ministry of Atomic Energy joint programs on the development of proliferation-resistant nuclear energy technologies, including advanced fuel cycles. Authorizes the Secretary to: (1) provide assistance to nuclear facilities abroad on the interdiction of hostile insiders at such facilities in order to prevent incidents arising from the disablement of vital facility systems; and (2) expand and accelerate DOE

programs to support the International Atomic Energy Agency in strengthening international nuclear safety and security. Provides funding.

(Sec. 3160) Authorizes the Secretary to pursue in the former Soviet Union and other regions of concern options for accelerating programs that assist countries in improving their domestic export control programs for materials, technologies, and expertise relevant to the construction or use of a nuclear or radiological dispersal device. Provides funding.

(Sec. 3161) Directs the Secretary to work cooperatively with the Russian Federation to update and improve the Joint Action Plan for the Materials Protection, Control, and Accounting programs of DOE and the Russian Ministry of Atomic Energy. Expresses the sense of Congress that the Secretary should: (1) enhance such partnership to increase the pace and effectiveness of nuclear materials accounting and security activities at facilities in the Russian Federation; and (2) clearly identify the assistance required by, and contributions expected from, the Russian Federation, as well as the milestones that can be used to assess progress in meeting such requirements.

(Sec. 3162) Amends the National Defense Authorization Act for Fiscal Year 2002 to require the President to report annually to Congress on a plan for the coordination and cooperation with the Russian Federation on the disposition of nuclear weapons and weapons-usable nuclear material in Russia that is not retained in its nuclear arsenal.

(Sec. 3163) Authorizes each Federal, State, or local department or agency that carries out work on counterterrorism and homeland security activities at a DOE national laboratory to be a joint sponsor, under a multiple agency sponsorship arrangement with DOE, with such laboratory in the performance of such work as if such site were a federally funded research and development center. Requires DOE to be the primary sponsor and the Administrator to act as lead agent. Provides funds, with a limitation.

Subtitle E: Other Matters - Amends the Atomic Energy Act of 1954 to extend until August 1, 2012, a program under which the Secretary indemnifies DOE contractors who perform activities that involve the risk of public liability and are not subject to financial protection requirements of such Act.

(Sec. 3172) Amends the above Act to provide new requirements for worker health and safety rules for DOE nuclear facilities. Provides civil penalties against persons who have entered into an indemnification agreement that violates rules or regulations relating to industrial or construction health and safety and a specified DOE Order. Requires such regulations to take effect within one year of promulgation, authorizing the Secretary to provide for regulation variances or exemptions to the extent necessary to avoid serious impairment of U.S. national security interests. Provides enforcement guidance with respect to structures to be disposed of due to industrial or construction health and safety requirements. Requires the Secretary to include in each DOE contract a provision that allows an appropriate reduction in contract fees or costs in the event of a contractor violation of DOE health or safety regulations or orders.

(Sec. 3173) Amends the National Defense Authorization Act for Fiscal Year 2000 to extend until January 1, 2005, the authority of DOE to pay voluntary separation incentive payments.

(Sec. 3174) Makes funds authorized under this title available for FY 2003 payments to the Los Alamos National Laboratory Foundation for the support of public education needs of children in the vicinity of the Los Alamos National Laboratory, New Mexico.

Subtitle F: Disposition of Weapons-Usable Plutonium at Savannah River, South Carolina - Directs the Secretary to submit to Congress a plan for the construction and operation at the Savannah River Site, South Carolina, of a mixed-

oxide fuel facility for converting weapons-grade plutonium to a mixed-oxide fuel for use in commercial nuclear power reactors. Provides a construction schedule and production deadline dates, with the goal of achieving facility construction by January 1, 2009, and of processing 34 metric tons of plutonium into mixed-oxide fuel by January 1, 2019. Requires: (1) the Secretary to submit corrective action plans if the schedule and deadlines are not met; (2) the removal or disposal of unprocessed plutonium from the Site if the schedule and deadlines are not met; and (3) payments to South Carolina of economic and impact assistance associated with not meeting such schedule and deadlines. Directs the Secretary to submit to Congress: (1) a plan to address the failure to complete the planned removal or disposal; and (2) a report on the removal of the facility upon completion of operations.

(Sec. 3183) Requires the Defense Nuclear Facilities Safety Board to study and report to Congress and the Secretary on the adequacy of the K-Area Materials Storage Facility and related facilities at the Savannah River Site for the storage of defense plutonium and related materials in connection with the plutonium disposition program.

Title XXXII: Defense Nuclear Facilities Safety Board - Authorizes appropriations for FY 2003 for the: (1) Defense Nuclear Facilities Safety Board; and (2) Department of the Army for the formerly used sites remedial action program of the Corps of Engineers.

Actions Timeline

- **Jul 8, 2002:** Message on Senate action sent to the House.
- **Jul 8, 2002:** Received in the House.
- **Jul 8, 2002:** Held at the desk.
- **Jun 27, 2002:** Measure laid before Senate by unanimous consent. (consideration: CR S6225)
- **Jun 27, 2002:** Senate struck all after the Enacting Clause and substituted the language of S.2514 amended (Division C).
- **Jun 27, 2002:** Passed/agreed to in Senate: Passed Senate with an amendment by Unanimous Consent.
- **Jun 27, 2002:** Passed Senate with an amendment by Unanimous Consent.
- **May 15, 2002:** Introduced in Senate
- **May 15, 2002:** Committee on Armed Services. Original measure reported to Senate by Senator Levin. Without written report.
- **May 15, 2002:** Committee on Armed Services. Original measure reported to Senate by Senator Levin. Without written report.
- **May 15, 2002:** Placed on Senate Legislative Calendar under General Orders. Calendar No. 373.
- **May 9, 2002:** Committee on Armed Services ordered to be reported an original measure.