the proponent and an opponent, shall not be subject to amendment, and shall not be subject to a demand for division of the question in the House or in the Committee of the Whole. All points order against that amendment are waived.

SEC. 6. At the conclusion of consideration of the bill for amendment the Committee shall rise and report the bill to the House with such amendments as may have been adopted. Any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the committee amendment in the nature of a substitute. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

SEC. 7. After passage of H.R. 1401, it shall be in order to take from the Speaker's table the bill S. 1059 and to consider the Senate bill in the House. All points of order against the Senate bill and against its consideration are waived. It shall be in order to move to strike all after the enacting clause of the Senate bill and to insert in lieu thereof the provisions of H.R. 1401 as passed by the House. All points of order against that motion are waived.

SEC. 8. House Resolution 195 is laid on the table.

When said resolution was considered.

After debate,

On motion of Mrs. MYRICK, the previous question was ordered on the resolution to its adoption or rejection.

The question being put, viva voce,

Will the House agree to said resolution?

The SPEAKER pro tempore, Mr. LATOURETTE, announced that the yeas had it.

Mr. FROST objected to the vote on the ground that a quorum was not present and not voting.

A quorum not being present,

The roll was called under clause 6, rule XX, and the call was taken by electronic device.

When there appeared { Yeas ..... 354 / Nays ..... 75 }

¶61.8 [Roll No. 179]

YEAS—354

Abercrombie, Ackerman, Aderholt, Allen, Andrews, Archer, Armey, Bachus, Baird, Baker, Baldacci, Ballenger, Barcia, Barr, Barrett (NE), Bartlett, Barton, Bass, Bateman, Bentsen, Bereuter, Berkley, Berman, Berry, Biggert, Bilbray, Bilirakis, Bishop, Blagojevich, Bliley, Blumenauer, Blunt, Boehlert, Boehner, Bonilla, Bono, Borski, Boswell, Boucher, Boyd, Brady (PA), Brady (TX), Brown (FL), Brown (OH), Bryant, Burr, Burton, Buyer, Callahan, Calvert, Camp, Campbell, Canady, Cannon, Capps, Carson, Castle, Chabot, Chambliss, Clayton, Clement, Coble, Coburn, Collins, Combest, Condit, Cook, Cooksey, Costello, Cox, Coyne, Cramer, Crane, Crowley, Cubin, Cummings, Cunningham, Danner, Davis (FL), Davis (IL), Davis (VA), Deal, DeLay, DeMint, Deutsch, Diaz-Balart, Dickey, Dicks, Dixon, Dooley, Doolittle, Doyle, Dreier, Duncan, Dunn, Edwards, Ehlers, Ehrlich, Emerson, Engel, English, Etheridge, Everett, Ewing, Farr, Fletcher, Foley, Forbes, Ford, Fossella, Fowler, Frank (MA), Franks (NJ), Frelinghuysen, Frost, Gallegly, Ganske, Gekas, Gibbons, Gilchrest, Gillmor, Gilman, Gonzalez, Goode, Goodlatte, Goodling, Gordon, Goss, Graham, Granger, Green (TX), Green (WI), Greenwood, Gutierrez, Gutknecht, Hall (OH), Hall (TX), Hansen, Hastert, Hastings (WA), Hayes, Hayworth, Hefley, Herger, Hill (IN), Hill (MT), Hilleary, Hobson, Hoeffel, Hoekstra, Holden, Horn, Hostettler, Houghton, Hoyer, Hulshof, Hunter, Hutchinson, Hyde, Inslee, Isakson, Istook, Jackson-Lee (TX), Jefferson, Jenkins, John, Johnson (CT), Johnson, E. B., Johnson, Sam, Jones (NC), Kaptur, Kasich, Kelly, Kennedy, Kildee, King (NY), Kingston, Knollenberg, Kolbe, Kuykendall, LaHood, Lampson, Lantos, Largent, Larson, Latham, LaTourette, Lazio, Leach, Levin, Lewis (CA), Lewis (KY), Linder, Lipinski, LoBiondo, Lowey, Lucas (KY), Lucas (OK), Maloney (CT), Maloney (NY), Manzullo, Markey, Mascara, Matsui, McCarthy (MO), McCarthy (NY), McCollum, McCrery, McGovern, McInnis, McIntosh, McIntyre, McKeon, McKinney, McNulty, Meehan, Metcalf, Mica, Millender-McDonald, Miller (FL), Miller, Gary, Mink, Moakley, Mollohan, Moore, Moran (KS), Morella, Murtha, Myrick, Napolitano, Neal, Nethercutt, Ney, Northup, Norwood, Nussle, Ortiz, Ose, Oxley, Packard, Pascrell, Pastor, Paul, Pease, Peterson (PA), Petri, Phelps, Pickering, Pickett, Pitts, Pombo, Pomeroy, Porter, Portman, Price (NC), Pryce (OH), Quinn, Radanovich, Rahall, Ramstad, Regula, Reyes, Reynolds, Riley, Rivers, Rodriguez, Roemer, Rogan, Rogers, Rohrabacher, Ros-Lehtinen, Rothman, Roukema, Roybal-Allard, Royce, Ryan (WI), Ryun (KS), Salmon, Sanchez, Sandlin, Sanford, Sawyer, Saxton, Scarborough, Schaffer, Scott, Sensenbrenner, Serrano, Sessions, Shadegg, Shaw, Shays, Sherwood, Shimkus, Shows, Shuster, Simpson, Sisisky, Skeen, Skelton, Slaughter, Smith (MI), Smith (NJ), Smith (TX), Smith (WA), Snyder, Souder, Spence, Spratt, Stearns, Stenholm, Strickland, Stump, Sununu, Sweeney, Talent, Tancredo, Tanner, Tauscher, Tauzin, Taylor (MS), Taylor (NC), Terry, Thomas, Thompson (CA), Thornberry, Thune, Thurman, Tiahrt, Toomey, Traficant, Turner, Upton, Vitter, Walden, Walsh, Wamp, Watkins, Watts (OK), Waxman, Weiner, Weldon (FL), Weldon (PA), Weller, Wexler, Weygand, Whitfield, Wicker, Wilson, Wise, Wolf, Woolsey, Young (AK), Young (FL)

NAYS—75

Baldwin, Barrett (WI), Becerra, Bonior, Capuano, Cardin, Clay, Clyburn, Conyers, DeFazio, DeGette, Delahunt, DeLauro, Dingell, Doggett, Eshoo, Evans, Fattah, Filner, Gejdenson, Gephardt, Hastings (FL), Hilliard, Hinchey, Hinojosa, Holt, Hooley, Jackson (IL), Jones (OH), Kanjorski, Kilpatrick, Kind (WI), Kleczka, Klink, Kucinich, LaFalce, Lee, Lewis (GA), Lofgren, Martinez, McDermott, Meek (FL), Meeks (NY), Menendez, Miller, George, Minge, Nadler, Oberstar, Obey, Olver, Owens, Pallone, Payne, Pelosi, Peterson (MN), Rangel, Rush, Sabo, Sanders, Schakowsky, Sherman, Stabenow, Stark, Stupak, Thompson (MS), Tierney, Towns, Udall (CO), Udall (NM), Velazquez, Vento, Visclosky, Watt (NC), Wu, Wynn

NOT VOTING—6

Brown (CA), Chenoweth, Luther, McHugh, Moran (VA), Waters

So the resolution was agreed to.

A motion to reconsider the vote whereby said resolution was agreed to was, by unanimous consent, laid on the table.

Pursuant to section 8 of House Resolution 200, House Resolution 195 was laid on the table.

¶61.9 DEFENSE AUTHORIZATION FY 2000 AND 2001

The SPEAKER pro tempore, Mr. LATOURETTE, pursuant to House Resolution 200 and rule XVIII, declared the House resolved into the Committee of the Whole House on the state of the Union for the consideration of the bill (H.R. 1401) to authorize appropriations for fiscal years 2000 and 2001 for military activities of the Department of Defense, to prescribe military personnel strengths for fiscal years 2000 and 2001, and for other purposes.

The SPEAKER pro tempore, Mr. LATOURETTE, by unanimous consent, designated Mr. NETHERCUTT as Chairman of the Committee of the Whole; and after some time spent therein,

¶61.10 RECORDED VOTE

A recorded vote by electronic device was ordered in the Committee of the Whole on the following amendment submitted by Mr. COX:

TITLE XIV—PROLIFERATION AND EXPORT CONTROL MATTERS

SEC. 1401. REPORT ON COMPLIANCE BY THE PEOPLE'S REPUBLIC OF CHINA AND OTHER COUNTRIES WITH THE MISSILE TECHNOLOGY CONTROL REGIME.

(a) REPORT REQUIRED.—Not later than October 31, 1999, the President shall transmit to Congress a report on the compliance, or lack of compliance (both as to acquiring and transferring missile technology), by the People's Republic of China, with the Missile Technology Control Regime, and on any actual or suspected transfer by Russia or any other country of missile technology to the People's Republic of China in violation of the Missile Technology Control Regime. The report shall include a list specifying each actual or suspected violation of the Missile Technology Control Regime by the People's Republic of China, Russia, or other country and, for each such violation, a description of the remedial action (if any) taken by the United States or any other country.

(b) MATTERS TO BE INCLUDED.—The report under subsection (a) shall also include information concerning—

(1) actual or suspected use by the People's Republic of China of United States missile technology;

(2) actual or suspected missile proliferation activities by the People's Republic of China;

(3) actual or suspected transfer of missile technology by Russia or other countries to the People's Republic of China: and

(4) United States actions to enforce the Missile Technology Control Regime with respect to the People's Republic of China, including actions to prevent the transfer of missile technology from Russia and other countries to the People's Republic of China.

SEC. 1402. ANNUAL REPORT ON TECHNOLOGY TRANSFERS TO THE PEOPLE'S REPUBLIC OF CHINA.

(a) ANNUAL REPORT.—The President shall transmit to Congress an annual report on transfers to the People's Republic of China by the United States and other countries of technology with potential military applications, during the 1-year period preceding the transmittal of the report.

(b) INITIAL REPORT.—The initial report under this section shall be transmitted not later than October 31, 1999.

SEC. 1403. REPORT ON IMPLEMENTATION OF TRANSFER OF SATELLITE EXPORT CONTROL AUTHORITY.

Not later than August 31, 1999, the President shall transmit to Congress a report on the implementation of subsection (a) of section 1513 of the Strom Thurmond National Defense Authorization Act for Fiscal Year 1999 (Public Law 105–261; 112 Stat. 2174; 22 U.S.C. 2778 note), transferring satellites and related items from the Commerce Control List of dual-use items to the United States Munitions List. The report shall update the information provided in the report under subsection (d) of that section.

SEC. 1404. SECURITY IN CONNECTION WITH SATELLITE EXPORT LICENSING.

(a) SECURITY AT FOREIGN LAUNCHES.—As a condition of the export license for any satellite to be launched outside the jurisdiction of the United States, the Secretary of State shall require the following:

(1) That the technology transfer control plan required by section 1514(a)(1) of the Strom Thurmond National Defense Authorization Act for Fiscal Year 1999 (Public Law 105–261; 112 Stat. 2175; 22 U.S.C. 2778 note) be prepared by the Department of Defense, and agreed to by the licensee, and that the plan set forth the security arrangements for the launch of the satellite, both before and during launch operations, and include enhanced security measures if the launch site is within the jurisdiction of the People's Republic of China or any other country that is subject to section 1514 of the Strom Thurmond National Defense Authorization Act for Fiscal Year 1999.

(2) That each person providing security for the launch of that satellite—

(A) be employed by, or under a contract with, the Department of Defense;

(B) have received appropriate training in the regulations prescribed by the Secretary of State known as the International Trafficking in Arms Regulations (hereafter in this section referred to as ''ITAR'');

(C) have significant experience and expertise with satellite launches; and

(D) have been investigated in a manner at least as comprehensive as the investigation required for the issuance of a security clearance at the level designated as ''Secret''.

(3) That the number of such persons providing security for the launch of the satellite shall be sufficient to maintain 24-hour security of the satellite and related launch vehicle and other sensitive technology.

(4) That the licensee agree to reimburse the Department of Defense for all costs associated with the provision of security for the launch of the satellite.

(b) DEFENSE DEPARTMENT MONITORS.—The Secretary of Defense shall—

(1) ensure that persons assigned as space launch campaign monitors are provided sufficient training and have adequate experience in the ITAR and have significant experience and expertise with satellite technology, launch vehicle technology, and launch operations technology;

(2) ensure that adequate numbers of such monitors are assigned to space launch campaigns so that 24-hour, 7-day per week coverage is provided;

(3) take steps to ensure, to the maximum extent possible, the continuity of service by monitors for the entire space launch campaign period (from satellite marketing to launch and, if necessary, completion of a launch failure analysis); and

(4) adopt measures designed to make service as a space launch campaign monitor an attractive career opportunity.

SEC. 1405. REPORTING OF TECHNOLOGY PASSED TO PEOPLE'S REPUBLIC OF CHINA AND OF FOREIGN LAUNCH SECURITY VIOLATIONS.

(a) MONITORING OF INFORMATION.—The Secretary of Defense shall require that space launch monitors of the Department of Defense assigned to monitor launches in the People's Republic of China maintain records of all information authorized to be transmitted to the People's Republic of China, including copies of any documents authorized for such transmission, and reports on launch-related activities.

(b) TRANSMISSION TO OTHER AGENCIES.—The Secretary of Defense shall ensure that records under subsection (a) are transmitted on a current basis to appropriate elements of the Department of Defense and to the Department of State, the Department of Commerce, and the Central Intelligence Agency.

(c) RETENTION OF RECORDS.—Records described in subsection (a) shall be retained for at least the period of the statute of limitations for violations of the Arms Export Control Act.

(d) GUIDELINES.—The Secretary of Defense shall prescribe guidelines providing space launch monitors of the Department of Defense with the responsibility and the ability to report serious security violations, problems, or other issues at an overseas launch site directly to the headquarters office of the responsible Department of Defense component.

SEC. 1406. REPORT ON NATIONAL SECURITY IMPLICATIONS OF EXPORTING HIGH-PERFORMANCE COMPUTERS TO THE PEOPLE'S REPUBLIC OF CHINA.

(a) REVIEW.—The Secretary of Energy, the Secretary of Defense, and the Secretary of State, in consultation with other appropriate departments and agencies, shall conduct a comprehensive review of the national security implications of exporting high-performance computers to the People's Republic of China. As part of the review, the Secretary shall conduct empirical testing of the extent to which national security-related operations can be performed using clustered, massively-parallel processing or other combinations of computers.

(b) REPORT.—The Secretary of Energy shall submit to Congress a report on the results of the review under subsection (a). The report shall be submitted not later than six months after the date of the enactment of this Act and shall be updated not later than the end of each subsequent 1-year period.

SEC. 1407. END-USE VERIFICATION FOR USE BY PEOPLE'S REPUBLIC OF CHINA OF HIGH-PERFORMANCE COMPUTERS.

(a) REVISED HPC VERIFICATION SYSTEM.—The President shall seek to enter into an agreement with the People's Republic of China to revise the existing verification system with the People's Republic of China with respect to end-use verification for high-performance computers exported or to be exported to the People's Republic of China so as to provide for an open and transparent system providing for effective end-use verification for such computers and, at a minimum, providing for on-site inspection of the end-use and end-user of such computers, without notice, by United States nationals designated by the United States Government. The President shall transmit a copy of the agreement to Congress.

(b) DEFINITION.—As used in this section and section 1406, the term ''high performance computer'' means a computer which, by virtue of its composite theoretical performance level, would be subject to section 1211 of the National Defense Authorization Act for Fiscal Year 1998 (50 U.S.C. App. 2404 note).

(c) ADJUSTMENT OF COMPOSITE THEORETICAL PERFORMANCE LEVELS FOR POST-SHIPMENT VERIFICATION.—Section 1213 of the National Defense Authorization Act for Fiscal Year 1998 is amended by adding at the end the following:

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

SEC. 1408. PROCEDURES FOR REVIEW OF EXPORT OF CONTROLLED TECHNOLOGIES AND ITEMS.

(a) RECOMMENDATIONS FOR PRIORITIZATION OF NATIONAL SECURITY CONCERNS.—The President shall submit to Congress the President's recommendations for the establishment of a mechanism to identify, on a continuing basis, those controlled technologies and items the export of which is of greatest national security concern relative to other controlled technologies and items.

(b) RECOMMENDATIONS FOR EXECUTIVE DEPARTMENT APPROVALS FOR EXPORTS OF GREATEST NATIONAL SECURITY CONCERN.—With respect to controlled technologies and items identified under subsection (a), the President shall submit to Congress the President's recommendations for the establishment of a mechanism to identify procedures for export of such technologies and items so as to provide—

(1) that the period for review by an executive department or agency of a license application for any such export shall be extended to a period longer than that otherwise required when such longer period is considered necessary by the head of that department or agency for national security purposes; and

(2) that a license for such an export may be approved only with the agreement of each executive department or agency that reviewed the application for the license, subject to appeal procedures to be established by the President.

(c) RECOMMENDATIONS FOR STREAMLINED LICENSING PROCEDURES FOR OTHER EXPORTS.—With respect to controlled technologies and items other than those identified under subsection (a), the President shall submit to Congress the President's recommendations for modifications to licensing procedures for export of such technologies and items so as to streamline the licensing process and provide greater transparency, predictability, and certainty.

SEC. 1409. NOTICE OF FOREIGN ACQUISITION OF UNITED STATES FIRMS IN NATIONAL SECURITY INDUSTRIES.

Section 721(b) of the Defense Production Act of 1950 (50 U.S.C. 2170(b)) is amended—

(1) by inserting ''(1)'' before ''The President'';

(2) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively; and

(3) by adding at the end the following:

''(2) Whenever a person engaged in interstate commerce in the United States is the subject of a merger, acquisition, or takeover described in paragraph (1), that person shall promptly notify the President, or the Presi-

dent's designee, of such planned merger, acquisition, or takeover. Whenever any executive department or agency becomes aware of any such planned merger, acquisition, or takeover, the head of that department or agency shall promptly notify the President, or the President's designee, of such planned merger, acquisition, or takeover.''.

SEC. 1410. FIVE-AGENCY INSPECTORS GENERAL EXAMINATION OF COUNTERMEASURES AGAINST ACQUISITION BY THE PEOPLE'S REPUBLIC OF CHINA OF MILITARILY SENSITIVE TECHNOLOGY.

Not later than January 1, 2000, the Inspectors General of the Departments of State, Defense, the Treasury, and Commerce and the Inspector General of the Central Intelligence Agency shall submit to Congress a report on the adequacy of current export controls and counterintelligence measures to protect against the acquisition by the People's Republic of China of militarily sensitive United States technology. Such report shall include a description of measures taken to address any deficiencies found in such export controls and counterintelligence measures.

SEC. 1411. OFFICE OF TECHNOLOGY SECURITY IN DEPARTMENT OF DEFENSE.

(a) ENHANCED MULTILATERAL EXPORT CONTROLS.—

(1) NEW INTERNATIONAL CONTROLS.—The President shall work (in the context of the scheduled 1999 review of the Wassenaar Arrangement and otherwise) to establish new binding international controls on technology transfers that threaten international peace and United States national security.

(2) IMPROVED SHARING OF INFORMATION.—The President shall take appropriate actions (in the context of the scheduled 1999 review of the Wassenaar Arrangement and otherwise) to improve the sharing of information by nations that are major exporters of technology so that the United States can track movements of technology and enforce technology controls and re-export requirements.

(b) OFFICE OF TECHNOLOGY SECURITY.—(1) There is hereby established in the Department of Defense an Office of Technology Security. The Office shall support United States Government efforts to—

(1) establish new binding international controls on technology transfers that threaten international peace and United States national security; and

(2) improve the sharing of information by nations that are major exporters of technology so that the United States can track movements of technology and enforce technology controls and re-export requirements.

At the end of subtitle A of title XXXI (page 419, after line 3), insert the following new section:

SEC. 3106. DEPARTMENT OF ENERGY COUNTERINTELLIGENCE CYBER SECURITY PROGRAM.

(a) INCREASED FUNDS FOR COUNTERINTELLIGENCE CYBER SECURITY.—The amounts provided in section 3103 in the matter preceding paragraph (1) and in paragraph (3) are each hereby increased by $8,600,000, to be available for Counterintelligence Cyber Security programs.

(b) OFFSETTING REDUCTIONS DERIVED FROM CONTRACTOR TRAVEL.—(1) The amount provided in section 3101 in the matter preceding paragraph (1) (for weapons activities in carrying out programs necessary for national security) is hereby reduced by $4,700,000.

(2) The amount provided in section 3102 in the matter preceding paragraph (1) of subsection (a) (for environmental restoration and waste management in carrying out programs necessary for national security) is hereby reduced by $1,900,000.

(3) The amount provided in section 3103 in the matter preceding paragraph (1) is hereby reduced by $2,000,000.

At the end of title XXXI (page 453, after line 15), insert the following new subtitle:

Subtitle F—Protection of National Security Information

SEC. 3181. SHORT TITLE.

This subtitle may be cited as the ''National Security Information Protection Improvement Act''.

SEC. 3182. SEMI-ANNUAL REPORT BY THE PRESIDENT ON ESPIONAGE BY THE PEOPLE'S REPUBLIC OF CHINA.

(a) REPORTS REQUIRED.—The President shall transmit to Congress a report, not less often than every six months, on the steps being taken by the Department of Energy, the Department of Defense, the Federal Bureau of Investigation, the Central Intelligence Agency, and all other relevant executive departments and agencies to respond to espionage and other intelligence activities by the People's Republic of China, particularly with respect to the theft of sophisticated United States nuclear weapons design information and the targeting by the People's Republic of China of United States nuclear weapons codes and other national security information of strategic concern.

(b) INITIAL REPORT.—The first report under this section shall be transmitted not later than January 1, 2000.

SEC. 3183. REPORT ON WHETHER DEPARTMENT OF ENERGY SHOULD CONTINUE TO MAINTAIN NUCLEAR WEAPONS RESPONSIBILITY.

Not later than January 1, 2000, the President shall transmit to Congress a report regarding the feasibility of alternatives to the current arrangements for controlling United States nuclear weapons development, testing, and maintenance within the Department of Energy, including the reestablishment of the Atomic Energy Commission as an independent nuclear agency. The report shall describe the benefits and shortcomings of each such alternative, as well as the current system, from the standpoint of protecting such weapons and related research and technology from theft and exploitation. The President shall include with such report the President's recommendation for the appropriate arrangements for controlling United States nuclear weapons development, testing, and maintenance outside the Department of Energy if it should be determined that the Department of Energy should no longer have that responsibility.

SEC. 3184. DEPARTMENT OF ENERGY OFFICE OF FOREIGN INTELLIGENCE AND OFFICE OF COUNTERINTELLIGENCE.

(a) IN GENERAL.—The Department of Energy Organization Act is amended by inserting after section 212 (42 U.S.C. 7143) the following new sections:

''OFFICE OF FOREIGN INTELLIGENCE

''SEC. 213. (a) There shall be within the Department an Office of Foreign Intelligence, to be headed by a Director, who shall report directly to the Secretary.

''(b) The Director shall be responsible for the programs and activities of the Department relating to the analysis of intelligence with respect to nuclear weapons and materials, other nuclear matters, and energy security.

''(c) The Secretary may delegate to the Deputy Secretary of Energy the day-to-day supervision of the Director.

''OFFICE OF COUNTERINTELLIGENCE

''SEC. 214. (a) There shall be within the Department an Office of Counterintelligence, to be headed by a Director, who shall report directly to the Secretary.

''(b) The Director shall carry out all counterintelligence activities in the Department relating to the defense activities of the Department.

''(c) The Secretary may delegate to the Deputy Secretary of Energy the day-to-day supervision of the Director.

''(d)(1) The Director shall keep the intelligence committees fully and currently informed of all significant security breaches at any of the national laboratories.

''(2) For purposes of this subsection, the term 'intelligence committees' means the Permanent Select Committee of the House of Representatives and the Select Committee on Intelligence of the Senate.''.

(b) CLERICAL AMENDMENT.—The table of contents in the first section of that Act is amended by inserting after the item relating to section 212 the following new items:

''Sec. 213. Office of Foreign Intelligence.
''Sec. 214. Office of Counterintelligence.''.

SEC. 3185. COUNTERINTELLIGENCE PROGRAM AT DEPARTMENT OF ENERGY NATIONAL LABORATORIES.

(a) PROGRAM REQUIRED.—The Secretary of Energy shall establish and maintain at each national laboratory a counterintelligence program for the defense-related activities of the Department of Energy at such laboratory.

(b) HEAD OF PROGRAM.—The Secretary shall ensure that, for each national laboratory, the head of the counterintelligence program of that laboratory—

(1) has extensive experience in counterintelligence activities within the Federal Government; and

(2) with respect to the counterintelligence program, is responsible directly to, and is hired with the concurrence of, the Director of Counterintelligence of the Department of Energy and the director of the national laboratory.

SEC. 3186. COUNTERINTELLIGENCE ACTIVITIES AT OTHER DEPARTMENT OF ENERGY FACILITIES.

(a) ASSIGNMENT OF COUNTERINTELLIGENCE PERSONNEL.—(1) The Secretary of Energy shall assign to each Department of Energy facility, other than a national laboratory, at which Restricted Data is located an individual who shall assess security and counterintelligence matters at that facility.

(2) An individual assigned to a facility under this subsection shall be stationed at the facility.

(b) SUPERVISION.—Each individual assigned under subsection (a) shall report directly to the Director of the Office of Counterintelligence of the Department of Energy.

SEC. 3187. DEPARTMENT OF ENERGY POLYGRAPH EXAMINATIONS.

(a) COUNTERINTELLIGENCE POLYGRAPH PROGRAM REQUIRED.—The Secretary of Energy, acting through the Director of Counterintelligence of the Department of Energy, shall carry out a counterintelligence polygraph program for the defense activities of the Department of Energy. The program shall consist of the administration on a regular basis of a polygraph examination to each covered person who has access to a program that the Director of Counterintelligence and the Assistant Secretary assigned the functions under section 203(a)(5) of the Department of Energy Organization Act determine requires special access restrictions.

(b) COVERED PERSONS.—For purposes of subsection (a), a covered person is any of the following:

(1) An officer or employee of the Department.

(2) An expert or consultant under contract to the Department.

(3) An officer or employee of any contractor of the Department.

(c) ADDITIONAL POLYGRAPH EXAMINATIONS.—In addition to the polygraph examinations administered under subsection (a), the Secretary, in carrying out the defense activities of the Department—

(1) may administer a polygraph examination to any employee of the Department or of any contractor of the Department, for counterintelligence purposes; and

(2) shall administer a polygraph examination to any such employee in connection with an investigation of such employee, if such employee requests the administration of a polygraph examination for exculpatory purposes.

(d) REGULATIONS.—(1) The Secretary shall prescribe any regulations necessary to carry out this section. Such regulations shall include procedures, to be developed in consultation with the Director of the Federal Bureau of Investigation, for identifying and addressing ''false positive'' results of polygraph examinations.

(2) Notwithstanding section 501 of the Department of Energy Organization Act (42 U.S.C. 7191) or any other provision of law, the Secretary may, in prescribing regulations under paragraph (1), waive any requirement for notice or comment if the Secretary determines that it is in the national security interest to expedite the implementation of such regulations.

(e) NO CHANGE IN OTHER POLYGRAPH AUTHORITY.—This section shall not be construed to affect the authority under any other provision of law of the Secretary to administer a polygraph examination.

SEC. 3188. CIVIL MONETARY PENALTIES FOR VIOLATIONS OF DEPARTMENT OF ENERGY REGULATIONS RELATING TO THE SAFEGUARDING AND SECURITY OF RESTRICTED DATA.

(a) IN GENERAL.—Chapter 18 of title I of the Atomic Energy Act of 1954 (42 U.S.C. 2271 et seq.) is amended by inserting after section 234A the following new section:

''SEC. 234B. CIVIL MONETARY PENALTIES FOR VIOLATIONS OF DEPARTMENT OF ENERGY REGULATIONS REGARDING SECURITY OF CLASSIFIED OR SENSITIVE INFORMATION OR DATA.—

''a. Any individual or entity that has entered into a contract or agreement with the Department of Energy, or a subcontract or subagreement thereto, and that commits a gross violation or a pattern of gross violations of any applicable rule, regulation, or order prescribed or otherwise issued by the Secretary pursuant to this subtitle relating to the safeguarding or security of Restricted Data or other classified or sensitive information shall be subject to a civil penalty of not to exceed $500,000 for each such violation.

''b. The Secretary shall include, in each contract entered into after the date of the enactment of this section with a contractor of the Department, provisions which provide an appropriate reduction in the fees or amounts paid to the contractor under the contract in the event of a violation by the contractor or contractor employee of any rule, regulation, or order relating to the safeguarding or security of Restricted Data or other classified or sensitive information. The provisions shall specify various degrees of violations and the amount of the reduction attributable to each degree of violation.

''c. The powers and limitations applicable to the assessment of civil penalties under section 234A shall apply to the assessment of civil penalties under this section.''.

(b) CLARIFYING AMENDMENT.—The section heading of section 234A of that Act (42 U.S.C. 2282a) is amended by inserting ''SAFETY'' before ''REGULATIONS''.

(c) CLERICAL AMENDMENT.—The table of sections in the first section of that Act is amended by inserting after the item relating to section 234 the following new items:

''234A. Civil Monetary Penalties for Violations of Department of Energy Safety Regulations.

''234B. Civil Monetary Penalties for Violations of Department of Energy Regulations Regarding Security of Classified or Sensitive Information or Data.''.

SEC. 3189. INCREASED PENALTIES FOR MISUSE OF RESTRICTED DATA.

(a) COMMUNICATION OF RESTRICTED DATA.—Section 224 of the Atomic Energy Act of 1954 (42 U.S.C. 2274) is amended—

(1) in clause a., by striking ''$20,000'' and inserting ''$400,000''; and

(2) in clause b., by striking ''$10,000'' and inserting ''$200,000''.

(b) RECEIPT OF RESTRICTED DATA.—Section 225 of such Act (42 U.S.C. 2275) is amended by striking ''$20,000'' and inserting ''$400,000''.

(c) DISCLOSURE OF RESTRICTED DATA.—Section 227 of such Act (42 U.S.C. 2277) is amended by striking ''$2,500'' and inserting ''$50,000''.

SEC. 3190. RESTRICTIONS ON ACCESS TO NATIONAL LABORATORIES BY FOREIGN VISITORS FROM SENSITIVE COUNTRIES.

(a) BACKGROUND REVIEW REQUIRED.—The Secretary of Energy may not admit to any facility of a national laboratory any individual who is a citizen or agent of a nation that is named on the current sensitive countries list unless the Secretary first completes a background review with respect to that individual.

(b) MORATORIUM PENDING CERTIFICATION.—(1) During the period described in paragraph (2), the Secretary may not admit to any facility of a national laboratory any individual who is a citizen or agent of a nation that is named on the current sensitive countries list.

(2) The period referred to in paragraph (1) is the period beginning 30 days after the date of the enactment of this Act and ending on the later of the following:

(A) The date that is 90 days after the date of the enactment of this Act.

(B) The date that is 45 days after the date on which the Secretary submits to Congress a certification described in paragraph (3).

(3) A certification referred to in paragraph (2) is a certification by the Director of Counterintelligence of the Department of Energy, with the concurrence of the Director of the Federal Bureau of Investigation, that all security measures are in place that are necessary and appropriate to prevent espionage or intelligence gathering by or for a sensitive country, including access by individuals referred to in paragraph (1) to classified information of the national laboratory.

(c) WAIVER OF MORATORIUM.—(1) The Secretary of Energy may waive the prohibition in subsection (b) on a case-by-case basis with respect to any specific individual or any specific delegation of individuals whose admission to a national laboratory is determined by the Secretary to be in the interest of the national security of the United States.

(2) Not later than the seventh day of the month following a month in which a waiver is made, the Secretary shall submit a report in writing providing notice of each waiver made in that month to the following:

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

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

(3) Each such report shall be in classified form and shall contain the identity of each individual or delegation for whom such a waiver was made and, with respect to each such individual or delegation, the following information:

(A) A detailed justification for the waiver.

(B) For each individual with respect to whom a background review was conducted, whether the background review determined that negative information exists with respect to that individual.

(C) The Secretary's certification that the admission of that individual or delegation to a national laboratory is in the interest of the national security of the United States.

(4) The authority of the Secretary under paragraph (1) may be delegated only to the Director of Counterintelligence of the Department of Energy.

(d) EXCEPTION TO MORATORIUM FOR CERTAIN INDIVIDUALS.—The moratorium under subsection (b) shall not apply to any person who—

(1) is, on the date of the enactment of this Act, an employee or assignee of the Department of Energy, or of a contractor of the Department; and

(2) has undergone a background review in accordance with subsection (a).

(e) EXCEPTION TO MORATORIUM FOR CERTAIN PROGRAMS.—In the case of a program undertaken pursuant to an international agreement between the United States and a foreign nation, the moratorium under subsection (b) shall not apply to the admittance to a facility that is important to that program of a citizen of that foreign nation whose admittance is important to that program.

(f) SENSE OF CONGRESS REGARDING BACKGROUND REVIEWS.—It is the sense of Congress that the Secretary of Energy, the Director of the Federal Bureau of Investigation, and the Director of Central Intelligence should ensure that background reviews carried out under this section are completed in not more than 15 days.

(g) DEFINITIONS.—For purposes of this section:

(1) The term ''background review'', commonly known as an indices check, means a review of information provided by the Director of Central Intelligence and the Director of the Federal Bureau of Investigation regarding personal background, including information relating to any history of criminal activity or to any evidence of espionage.

(2) The term ''sensitive countries list'' means the list prescribed by the Secretary of Energy known as the Department of Energy List of Sensitive Countries.

SEC. 3191. REQUIREMENTS RELATING TO ACCESS BY FOREIGN VISITORS AND EMPLOYEES TO DEPARTMENT OF ENERGY FACILITIES ENGAGED IN DEFENSE ACTIVITIES.

(a) SECURITY CLEARANCE REVIEW REQUIRED.—The Secretary of Energy may not allow unescorted access to any classified area, or access to classified information, of any facility of the Department of Energy engaged in the defense activities of the Department to any individual who is a citizen of a foreign nation unless—

(1) the Secretary, acting through the Director of Counterintelligence, first completes a security clearance investigation with respect to that individual in a manner at least as comprehensive as the investigation required for the issuance of a security clearance at the level required for such access under the rules and regulations of the Department; or

(2) a foreign government first completes a security clearance investigation with respect to that individual in a manner that the Secretary of State, pursuant to an international agreement between the United States and that foreign government, determines is equivalent to the investigation required for the issuance of a security clearance at the level required for such access under the rules and regulations of the Department.

(b) EFFECT ON CURRENT EMPLOYEES.—The Secretary shall ensure that any individual who, on the date of the enactment of this Act, is a citizen of a foreign nation and an employee of the Department or of a contractor of the Department is not discharged from such employment as a result of this section before the completion of the security clearance investigation of such individual under subsection (a) unless the Director of Counterintelligence determines that such

discharge is necessary for the national security of the United States.

SEC. 3192. ANNUAL REPORT ON SECURITY AND COUNTERINTELLIGENCE STANDARDS AT NATIONAL LABORATORIES AND OTHER DEFENSE FACILITIES OF THE DEPARTMENT OF ENERGY.

(a) REPORT ON SECURITY AND COUNTERINTELLIGENCE STANDARDS AT NATIONAL LABORATORIES AND OTHER DOE DEFENSE FACILITIES.—Not later than March 1 of each year, the Secretary of Energy, acting through the Director of Counterintelligence of the Department of Energy, shall submit a report on the security and counterintelligence standards at the national laboratories, and other facilities of the Department of Energy engaged in the defense activities of the Department, to the following:

(1) The Committee on Armed Services and the Select Committee on Intelligence of the Senate.

(2) The Committee on Armed Services and the Permanent Select Committee on Intelligence of the House of Representatives.

(b) CONTENTS OF REPORT.—The report shall be in classified form and shall contain, for each such national laboratory or facility, the following information:

(1) A description of all security measures that are in place to prevent access by unauthorized individuals to classified information of the national laboratory or facility.

(2) A certification by the Director of Counterintelligence of the Department of Energy as to whether—

(A) all security measures are in place to prevent access by unauthorized individuals to classified information of the national laboratory or facility; and

(B) such security measures comply with Presidential Decision Directives and other applicable Federal requirements relating to the safeguarding and security of classified information.

(3) For each admission of an individual under section 3190 not described in a previous report under this section, the identity of that individual, and whether the background review required by that section determined that information relevant to security exists with respect to that individual.

SEC. 3193. REPORT ON SECURITY VULNERABILITIES OF NATIONAL LABORATORY COMPUTERS.

(a) REPORT REQUIRED.—Not later than March 1 of each year, the National Counterintelligence Policy Board shall prepare a report, in consultation with the Director of Counterintelligence of the Department of Energy, on the security vulnerabilities of the computers of the national laboratories.

(b) PREPARATION OF REPORT.—In preparing the report, the National Counterintelligence Policy Board shall establish a so-called ''red team'' of individuals to perform an operational evaluation of the security vulnerabilities of the computers of the national laboratories, including by direct experimentation. Such individuals shall be selected by the National Counterintelligence Policy Board from among employees of the Department of Defense, the National Security Agency, the Central Intelligence Agency, the Federal Bureau of Investigation, and of other agencies, and may be detailed to the National Counterintelligence Policy Board from such agencies without reimbursement and without interruption or loss of civil service status or privilege.

(c) SUBMISSION OF REPORT TO SECRETARY OF ENERGY AND TO FBI DIRECTOR.—Not later than March 1 of each year, the report shall be submitted in classified and unclassified form to the Secretary of Energy and the Director of the Federal Bureau of Investigation.

(d) FORWARDING TO CONGRESSIONAL COMMITTEES.—Not later than 30 days after the report is submitted, the Secretary and the Director shall each separately forward that report, with the recommendations in classified and unclassified form of the Secretary or the Director, as applicable, in response to the findings of that report, to the following:

(1) The Committee on Armed Services and the Select Committee on Intelligence of the Senate.

(2) The Committee on Armed Services and the Permanent Select Committee on Intelligence of the House of Representatives.

SEC. 3194. GOVERNMENT ACCESS TO CLASSIFIED INFORMATION ON DEPARTMENT OF ENERGY DEFENSE-RELATED COMPUTERS.

(a) PROCEDURES REQUIRED.—The Secretary of Energy shall establish procedures to govern access to classified information on DOE defense-related computers. Those procedures shall, at a minimum, provide that each employee of the Department of Energy who requires access to classified information shall be required as a condition of such access to provide to the Secretary written consent which permits access by an authorized investigative agency to any DOE defense-related computer used in the performance of the defense-related duties of such employee during the period of that employee's access to classified information and for a period of three years thereafter.

(b) EXPECTATION OF PRIVACY IN DOE DEFENSE-RELATED COMPUTERS.—Notwithstanding any other provision of law (including any provision of law enacted by the Electronic Communications Privacy Act of 1986), no user of a DOE defense-related computer shall have any expectation of privacy in the use of that computer.

(c) DEFINITIONS.—For purposes of this section:

(1) The term 'DOE defense-related computer'' means a computer of the Department of Energy or a Department of Energy contractor that is used, in whole or in part, for a Department of Energy defense-related activity.

(2) The term ''computer'' means an electronic, magnetic, optical, electrochemical, or other high-speed data processing device performing logical, arithmetic, or storage functions, and includes any data storage facility or communications facility directly related to, or operating in conjunction with, such device.

(3) The term ''authorized investigative agency'' means an agency authorized by law or regulation to conduct a counterintelligence investigation or investigations of persons who are proposed for access to classified information to ascertain whether such persons satisfy the criteria for obtaining and retaining access to such information.

(4) The term ''classified information'' means any information that has been determined pursuant to Executive Order No. 12356 of April 2, 1982, or successor orders, or the Atomic Energy Act of 1954, to require protection against unauthorized disclosure and that is so designated.

(5) The term ''employee'' includes any person who receives a salary or compensation of any kind from the Department of Energy, is a contractor of the Department of Energy or an employee thereof, is an unpaid consultant of the Department of Energy, or otherwise acts for or on behalf of the Department of Energy.

(d) ESTABLISHMENT OF PROCEDURES.—Not later than 90 days after the date of the enactment of this Act, the Secretary of Energy shall prescribe such regulations as may be necessary to implement this section.

SEC. 3195. DEFINITION OF NATIONAL LABORATORY.

For purposes of this subtitle, the term ''national laboratory'' means any of the following:

(1) The Lawrence Livermore National Laboratory, Livermore, California.

(2) The Los Alamos National Laboratory, Los Alamos, New Mexico.

(3) The Sandia National Laboratories, Albuquerque, New Mexico.

(4) The Oak Ridge National Laboratories, Oak Ridge, Tennessee.

It was decided in the affirmative { Yeas ..... 428 / Nays ..... 0 }

¶61.11 [Roll No. 180]

AYES—428

Abercrombie
Ackerman
Aderholt
Allen
Andrews
Archer
Armey
Bachus
Baird
Baker
Baldacci
Baldwin
Ballenger
Barcia
Barr
Barrett (NE)
Barrett (WI)
Bartlett
Barton
Bass
Bateman
Becerra
Bentsen
Bereuter
Berkley
Berman
Berry
Biggert
Bilbray
Bilirakis
Bishop
Blagojevich
Bliley
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonior
Bono
Borski
Boswell
Boucher
Boyd
Brady (PA)
Brady (TX)
Brown (FL)
Brown (OH)
Bryant
Burr
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Cannon
Capps
Capuano
Cardin
Carson
Castle
Chabot
Chambliss
Chenoweth
Clay
Clayton
Clement
Clyburn
Coble
Coburn
Collins
Combest
Condit
Conyers
Cook
Cooksey
Costello
Cox
Coyne
Cramer
Crane
Crowley
Cubin
Cummings
Cunningham
Danner
Davis (FL)
Davis (IL)
Davis (VA)
Deal
DeFazio
DeGette
Delahunt
DeLauro
DeLay
DeMint
Deutsch
Diaz-Balart
Dickey
Dicks
Dingell
Dixon
Doggett
Dooley
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Ehrlich
Emerson
Engel
English
Eshoo
Etheridge
Evans
Everett
Ewing
Farr
Fattah
Filner
Fletcher
Foley
Forbes
Ford
Fossella
Fowler
Frank (MA)
Franks (NJ)
Frelinghuysen
Frost
Gallegly
Ganske
Gejdenson
Gekas
Gephardt
Gibbons
Gilchrest
Gillmor
Gilman
Gonzalez
Goode
Goodlatte
Goodling
Gordon
Goss
Graham
Granger
Green (TX)
Green (WI)
Greenwood
Gutierrez
Gutknecht
Hall (OH)
Hall (TX)
Hansen
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Hefley
Herger
Hill (IN)
Hill (MT)
Hilleary
Hilliard
Hinojosa
Hobson
Hoeffel
Hoekstra
Holden
Holt
Hooley
Horn
Hostettler
Houghton
Hoyer
Hulshof
Hunter
Hutchinson
Hyde
Inslee
Isakson
Istook
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
John
Johnson (CT)
Johnson, E. B.
Johnson, Sam
Jones (NC)
Jones (OH)
Kanjorski
Kaptur
Kasich
Kelly
Kennedy
Kildee
Kilpatrick
Kind (WI)
King (NY)
Kingston
Kleczka
Klink
Knollenberg
Kolbe
Kucinich
Kuykendall
LaFalce
LaHood
Lampson
Lantos
Largent
Larson
Latham
LaTourette
Lazio
Leach
Lee
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lofgren
Lowey
Lucas (KY)
Maloney (CT)
Maloney (NY)
Manzullo
Markey
Martinez
Mascara
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCrery
McDermott
McGovern
McInnis
McIntosh
McIntyre
McKeon
McKinney
McNulty