

**AMENDMENT TO H.R. 1401, AS REPORTED
OFFERED BY MR. SPENCE OF SOUTH CAROLINA**

At the end of title IX (page 265, after line 11), insert the following new section:

1 **SEC. 910. PLAN FOR TRANSFERRING THE DEPARTMENT OF**
2 **ENERGY NATIONAL SECURITY FUNCTIONS TO**
3 **THE DEPARTMENT OF DEFENSE.**

4 (a) PLAN REQUIRED.—The Secretary of Defense, in
5 consultation with the Secretary of Energy, shall submit
6 to Congress a report setting forth the Secretary's plan for
7 the transfer to the Department of Defense of the national
8 security programs of the Department of Energy by Janu-
9 ary 1, 2002.

10 (b) MATTERS TO BE INCLUDED.—The plan submit-
11 ted in the report under subsection (a) shall include the
12 following:

13 (1) A detailed plan for the integration into the
14 Department of Defense of the offices and labora-
15 tories of the Department of Energy which would be
16 transferred to the Department of Defense as part of
17 such a transfer of functions.

18 (2) An assessment of the personnel end-
19 strength reductions estimated to be achieved as a re-
20 sult of such a transfer of functions.

1 (3) An assessment of costs, or savings, associ-
2 ated with the various transfer of function options.

3 (4) An identification of all applicable provisions
4 of law that may inhibit or preclude such a transfer
5 of functions.

6 (c) PRESERVATION OF INTEGRITY OF DOE NA-
7 TIONAL SECURITY PROGRAMS.—In developing the plan
8 under subsection (a), the Secretary shall make every effort
9 to ensure that the mission and functioning of the national
10 security programs of the Department of Energy are not
11 unduly affected adversely during the transfer of those
12 functions to the Department of Defense and the consolida-
13 tion of those functions into activities of the Department.

14 (d) SUBMISSION OF REPORT.—The report required
15 under subsection (a) shall be submitted not later than
16 March 1, 2000.

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

17 **SEC. 3106. DEPARTMENT OF ENERGY COUNTERINTEL-**
18 **LIGENCE CYBER SECURITY PROGRAM.**

19 (a) INCREASED FUNDS FOR COUNTERINTELLIGENCE
20 CYBER SECURITY.—The amounts provided in section
21 3103 in the matter preceding paragraph (1) and in para-
22 graph (3) are each hereby increased by \$8,600,000, to be
23 available for Counterintelligence Cyber Security programs.

1 (b) OFFSETTING REDUCTIONS DERIVED FROM CON-
2 TRACTOR TRAVEL.—(1) The amount provided in section
3 3101 in the matter preceding paragraph (1) (for weapons
4 activities in carrying out programs necessary for national
5 security) is hereby reduced by \$4,700,000.

6 (2) The amount provided in section 3102 in the mat-
7 ter preceding paragraph (1) of subsection (a) (for environ-
8 mental restoration and waste management in carrying out
9 programs necessary for national security) is hereby re-
10 duced by \$1,900,000.

11 (3) The amount provided in section 3103 in the mat-
12 ter preceding paragraph (1) is hereby reduced by
13 \$2,000,000.

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

14 **SEC. 3167. DEPARTMENT OF ENERGY COUNTERINTEL-**
15 **LIGENCE PROGRAM.**

16 (a) PROGRAM REQUIRED.—The Secretary of Energy
17 shall establish and maintain a counterintelligence program
18 for the defense-related activities of the Department of En-
19 ergy.

20 (b) ELEMENTS OF PROGRAM.—The counterintel-
21 ligence program shall include the following elements:

22 (1) Collection and analysis of counterintel-
23 ligence information.

1 (2) Provision of education and training regard-
2 ing foreign intelligence operations to individuals car-
3 rying out defense-related activities, including risks
4 posed by such operations, techniques that may be
5 employed by such operations, and effective methods
6 to recognize, respond to, and report such operations.

7 (3) Provision of professional counterintelligence
8 training to the counterintelligence officers carrying
9 out the program.

10 (4) Prevention of, identification of, response to,
11 and neutralization of foreign intelligence operations
12 and unauthorized disclosures of classified informa-
13 tion.

14 (5) Dissemination of counterintelligence infor-
15 mation to appropriate intelligence or law enforce-
16 ment agencies of the United States.

17 (c) DIRECTOR OF THE OFFICE OF COUNTERINTEL-
18 LIGENCE.—The executive in the Department of Energy re-
19 sponsible for carrying out the counterintelligence program
20 shall be the Director of the Office of Counterintelligence,
21 who shall be directly responsible to the Secretary of En-
22 ergy. The Director is hereby established in the Senior Ex-
23 ecutive Service and shall, for all purposes, be treated as
24 a career reserved position (within the meaning of section
25 3132 of title 5, United States Code).

1 (d) COUNTERINTELLIGENCE AUTHORITY OF FIELD
2 OFFICES AND LABORATORIES.—The Secretary shall en-
3 sure that, for each national laboratory and for each oper-
4 ations office at which the activities of the counterintel-
5 ligence program are carried out, the director of the na-
6 tional laboratory or the manager of the operations office,
7 as applicable, has authority over, and responsibility for,
8 the counterintelligence activities at that laboratory or of-
9 fice. Each such director or manager shall, with respect to
10 such activities, be accountable to the Director of the Office
11 of Counterintelligence and, through the Director, to the
12 Secretary.

13 (e) REPORTING BY COUNTERINTELLIGENCE PER-
14 SONNEL AT FIELD OFFICES AND LABORATORIES.—For
15 each national laboratory and for each operations office at
16 which the activities of the counterintelligence program are
17 carried out, the counterintelligence personnel of the lab-
18 oratory or office shall, with respect to counterintelligence
19 activities, report concurrently—

20 (1) to the director of the laboratory or the man-
21 ager of the office, as applicable; and

22 (2) to the Director of the Office of Counter-
23 intelligence.

24 (f) DEPARTMENT OF ENERGY HEADQUARTERS
25 COUNTERINTELLIGENCE STAFF.—The Secretary shall en-

1 sure that the defense-related counterintelligence functions
2 at the Department of Energy headquarters are performed,
3 by the conclusion of fiscal year 2001 and thereafter, only
4 by Federal employees.

5 (g) AUTHORITY TO REVOKE AND SUSPEND SECURITY CLEARANCES.—The Director of the Office of Counterintelligence has the authority to revoke or suspend the
6 RITY CLEARANCES.—The Director of the Office of Counterintelligence has the authority to revoke or suspend the
7 terintelligence has the authority to revoke or suspend the
8 security clearance of any employee of the Department of
9 Energy or of any employee of a contractor of the Department
10 ment if information is made known to the Director that
11 the employee may have disclosed classified information—

12 (1) to an individual not authorized to receive
13 such information; or

14 (2) in any other unauthorized manner.

15 (h) REPORT ON IMPLEMENTATION OF PROGRAM.—
16 Not later than 120 days after the date of the enactment
17 of this Act, the Secretary shall submit to the Committee
18 on Armed Services and the Select Committee on Intelligence of the Senate and the Committee on Armed Services and the Permanent Select Committee on Intelligence
19 ligence of the Senate and the Committee on Armed Services and the Permanent Select Committee on Intelligence
20 ices and the Permanent Select Committee on Intelligence
21 of the House of Representatives a report on the implementation of the counterintelligence program under this section. The report shall include a description of—

22 tation of the counterintelligence program under this section. The report shall include a description of—
23 tion. The report shall include a description of—
24 (1) the organizational structure; and

1 (2) the activities that will be carried out to es-
2 tablish and maintain the elements of the program.

3 (i) REPORTS ON CHANGES TO PROGRAM.—Whenever
4 the Secretary makes any change to the implementation of
5 the counterintelligence program as such implementation is
6 described in the report submitted under subsection (h) or
7 in a prior report submitted under this subsection, the Sec-
8 retary shall promptly submit to the Committee on Armed
9 Services and the Select Committee on Intelligence of the
10 Senate and the Committee on Armed Services and the
11 Permanent Select Committee on Intelligence of the House
12 of Representatives a report identifying the change and de-
13 scribing the effect of the change on the implementation
14 of the program.

15 (j) DEFINITIONS.—For purposes of this section:

16 (1) DEFENSE-RELATED ACTIVITIES.—The term
17 “defense-related activities” means the defense activi-
18 ties of the Department of Energy, including activi-
19 ties relating to the national laboratories.

20 (2) COUNTERINTELLIGENCE INFORMATION.—
21 The term “counterintelligence information” has the
22 meaning given the term “counterintelligence” in sec-
23 tion 3(3) of the National Security Act of 1947 (50
24 U.S.C. 401a(3)).

1 (3) FOREIGN INTELLIGENCE OPERATION.—The
2 term “foreign intelligence operation” means a clan-
3 destine intelligence activity by an intelligence service
4 or network of a foreign power or by an agent of a
5 foreign power.

6 (4) FOREIGN POWER.—The term “foreign
7 power” has the meaning given such term in section
8 101(a) of the Foreign Intelligence Surveillance Act
9 of 1978 (50 U.S.C. 1801(a)).

10 (5) AGENT OF A FOREIGN POWER.—The term
11 “agent of a foreign power” has the meaning given
12 such term in section 101(b) of the Foreign Intel-
13 ligence Surveillance Act of 1978 (50 U.S.C.
14 1801(b)).

15 **SEC. 3168. FOREIGN CONTACT CONTROL PROGRAM AT THE**
16 **DEPARTMENT OF ENERGY.**

17 (a) IN GENERAL.—Not later than 60 days after the
18 enactment of this Act, the Secretary of Energy shall estab-
19 lish a program of foreign contact control at the Depart-
20 ment of Energy. The Secretary shall ensure that all con-
21 tacts between covered persons identified in subsection (b)
22 and citizens of sensitive countries shall be in accord with
23 the foreign contact controls established in this program.

24 (b) COVERED PERSONS.—For purposes of the foreign
25 contact control program, a covered person is a person who

1 has a security clearance that allows the person access to
2 high-risk programs or information identified in subsection
3 (c), and who is one of the following:

4 (1) An officer or employee of the Department.

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

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

9 (c) HIGH-RISK PROGRAMS OR INFORMATION.—For
10 purposes of the foreign contact control program, high-risk
11 programs or information are any of the following:

12 (1) The programs identified as high risk in the
13 regulations prescribed by the Secretary and known
14 as—

15 (A) special access programs;

16 (B) personnel security and assurance pro-
17 grams; and

18 (C) personnel assurance programs.

19 (2) The information identified as high risk in
20 the regulations prescribed by the Secretary and
21 known as Sensitive Compartmented Information.

22 (d) SENSITIVE COUNTRIES.—For purposes of the
23 foreign contact control program, a sensitive country is a
24 country that is named on the current Department of En-
25 ergy sensitive countries list.

1 (e) FOREIGN CONTACT CONTROLS.—The Depart-
2 ment of Energy foreign contact control program shall in-
3 clude the following requirements, and any others pre-
4 scribed by the Secretary of Energy or the Director of the
5 Department of Energy Office of Counterintelligence:

6 (1) A contact between a covered person and a
7 citizen of a sensitive country shall not occur unless
8 first approved by the Department of Energy Office
9 of Counterintelligence.

10 (2) Any contact between a covered person and
11 a citizen of a sensitive country shall be conducted
12 with two or more covered persons present at all
13 times. At no time shall a covered person meet with
14 a citizen of a sensitive country without another cov-
15 ered person being present. This requirement shall
16 apply to all contacts, whether the contact is to occur
17 in a foreign country, at a Department of Energy fa-
18 cility in the United States, or elsewhere within the
19 United States.

20 (3) Each contact between a covered person and
21 a citizen of a sensitive country shall be reported by
22 the covered person to the Department of Energy Of-
23 fice of Counterintelligence. The report shall include
24 a detailed itemization of the topics of discussion and
25 shall specify any questions the citizen of the sen-

1 sitive country asks regarding the defense applica-
2 tions of nuclear energy.

3 (f) WAIVER AUTHORITY.—The Director of the De-
4 partment of Energy Office of Counterintelligence may
5 waive the requirement of subsection (e)(2) for a specific
6 individual contact if the Director determines that a waiver
7 for that contact is necessary for national security pur-
8 poses.