

# **NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2003**

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## **CONFERENCE REPORT**

TO ACCOMPANY

**H.R. 4546**



NOVEMBER 12, 2002. ~~Ordered to be printed~~

107) to allow the National Nuclear Security Administration (NNSA) to extend the current contract with the Los Alamos Public Schools to provide for cost of living adjustments for the school teachers through fiscal year 2013. The current contract between the NNSA and the Los Alamos schools, pursuant to which this annual payment is made, expires at the end of fiscal year 2003. This amendment is necessary to allow the NNSA to include the annual payment in its fiscal year 2004 budget request and in subsequent years' budget requests.

The budget request for fiscal year 2003 for the NNSA includes \$8.0 million for the Los Alamos Public Schools to offset the cost of living for school teachers teaching in the public schools.

The House bill contained no similar provision.

The House recedes with an amendment that would limit the duration of the contract extension to 2005 and that would direct the Secretary of Energy, in conjunction with the Administrator of the National Nuclear Security Administration, to look at alternatives to the annual authorization and appropriation process to obtain funds to offset the cost of living for school teachers in the Los Alamos Public Schools. While the conferees recognize the need for this payment as well as the high cost of living in Los Alamos, the conferees urge DOE to identify and fund a mechanism to bring this annual process to a close in a reasonable amount of time. In exploring options, the Secretary should look at a buy-out option in the form of several larger payments over a limited number of years that would shift these annual payments to the Los Alamos school system, to local government, or to some other local entity.

*Worker health and safety rules for Department of Energy nuclear facilities (sec. 3173)*

The Senate amendment contained a provision (sec. 3172) that would add a new section 234C, following 234B of the Atomic Energy Act of 1954 (42 U.S.C. 2282b). This new section would authorize the Secretary of Energy to assess civil penalties against Department of Energy (DOE) contractors who have entered into an agreement of indemnification under section 170d of the Atomic Energy Act of 1954, for violation of any regulation relating to industrial or construction health and safety promulgated by DOE. The provision would also direct the Secretary to promulgate industrial and construction health safety regulations that incorporate the provisions of DOE Order No. 440.1A (1998) no later than 270 days from the date of enactment of this Act. These regulations would go into effect one year after the date of promulgation of the regulations. The provision would cap any fines at \$0.1 million per violation and would direct the Secretary to provide in the regulations a variance and exemption process for national security related work and at sites and facilities to be closed or transferred. The provision would cap total fines and penalties under 234A, 234B, and 234C, for non-profit contractors so that the total fees assessed would not exceed the amount of the annual fee paid by DOE. Activities under the Naval Nuclear Propulsion Program would be excluded from the program.

The House bill contained no similar provision.

The House recedes with an amendment that would direct the Secretary to promulgate regulations for industrial and construction health and safety. The regulations promulgated would provide a level of protection for workers that is substantially equivalent to current levels of protection. The conferees note that the DOE contractors currently operate under DOE order 440.1A (1998) which provides an adequate level of safety.

The Secretary would also be required to establish a mechanism to provide flexibility to implement the regulations. The regulations should establish a process that would allow sites to implement the regulations to account for unique site or mission circumstances or particular work environments and would include national security missions and requirements at closing facilities. In establishing a process for flexible implementation, the Secretary should ensure that there is no diminution of worker health and safety.

The provision would direct the Secretary to assess either civil penalties or contract penalties, but not both, for any individual action and would prohibit the Secretary from assessing a penalty under both 234A and 234C for the same action. The maximum fine for each violation would be \$70,000.

*Extension of authority to appoint certain scientific, engineering, and technical personnel (sec. 3174)*

The conferees agree to include a provision that would extend the current Department of Energy authority to appoint certain specific scientific engineering and technical personnel from September 30, 2002 to September 30, 2004.

*One-year extension of panel to assess the reliability, safety, and security of the United States nuclear stockpile (sec. 3175)*

The House bill contained a provision (sec. 3141) that would extend the panel to assess the reliability, safety, and security of the United States nuclear stockpile through April 1, 2003. The Senate amendment contained no similar provision.

The Senate recedes with an amendment that would direct the panel to use the extension to assess progress toward meeting the expectations set forth by the panel in previous reports. The panel would submit to the Committees on Armed Services of the Senate and the House of Representatives, by February 1, 2003, a report on the assessment, together with any recommendations for corrective legislative action where progress has been unsatisfactory.

*Report on status of environmental management initiatives to accelerate the reduction of environmental risks and challenges posed by the legacy of the Cold War (sec. 3176)*

The House bill contained a provision (sec. 3152) that would require the Secretary of Energy to prepare a report on the status of environmental initiatives being undertaken to accelerate cleanup and reduce environmental risks. The report should include a discussion of the progress of such initiatives.

The Senate amendment contained no similar provision.  
The Senate recedes.