

[DISCUSSION DRAFT]

SEPTEMBER 25, 2003

1 **[TITLE—_____ DEPARTMENT OF**
2 **ENERGY MANAGEMENT**

3 **SEC. ____ 01. IMPROVED COORDINATION AND MANAGEMENT**
4 **OF CIVILIAN SCIENCE AND TECHNOLOGY**
5 **PROGRAMS.**

6 (a) EFFECTIVE TOP-LEVEL COORDINATION OF RE-
7 SEARCH AND DEVELOPMENT PROGRAMS.—Section 202(b)
8 of the Department of Energy Organization Act (42 U.S.C.
9 7132(b)) is amended to read as follows:

10 “(b)(1) There shall be in the Department an Under
11 Secretary for Energy and Science, who shall be appointed
12 by the President, by and with the advice and consent of
13 the Senate. The Under Secretary shall be compensated at
14 the rate provided for at level III of the Executive Schedule
15 under section 5314 of title 5, United States Code.

16 “(2) The Under Secretary for Energy and Science
17 shall be appointed from among persons who—

18 “(A) have extensive background in scientific or
19 engineering fields; and

20 “(B) are well qualified to manage the civilian
21 research and development programs of the Depart-
22 ment.

1 “(3) The Under Secretary for Energy and Science
2 shall—

3 “(A) serve as the Science and Technology Advi-
4 sor to the Secretary;

5 “(B) monitor the Department’s research and
6 development programs in order to advise the Sec-
7 retary with respect to any undesirable duplication or
8 gaps in such programs;

9 “(C) advise the Secretary with respect to the
10 well-being and management of the multipurpose lab-
11 oratories under the jurisdiction of the Department;

12 “(D) advise the Secretary with respect to edu-
13 cation and training activities required for effective
14 short-term and long-term basic and applied research
15 activities of the Department;

16 “(E) advise the Secretary with respect to grants
17 and other forms of financial assistance required for
18 effective short-term and long-term basic and applied
19 research activities of the Department; and

20 “(F) exercise authority and responsibility over
21 Assistant Secretaries carrying out energy research
22 and development and energy technology functions
23 under sections 203 and 209, as well as other ele-
24 ments of the Department assigned by the Sec-
25 retary.”.

1 (b) RECONFIGURATION OF POSITION OF DIRECTOR
2 OF THE OFFICE OF SCIENCE.—(1) Section 209 of the De-
3 partment of Energy Organization Act (41 U.S.C. 7139)
4 is amended to read as follows:

5 “OFFICE OF SCIENCE

6 “SEC. 209. (a) There shall be within the Department
7 an Office of Science, to be headed by an Assistant Sec-
8 retary for Science, who shall be appointed by the Presi-
9 dent, by and with the advice and consent of the Senate,
10 and who shall be compensated at the rate provided for
11 level IV of the Executive Schedule under section 5315 of
12 title 5, United States Code.

13 “(b) The Assistant Secretary for Science shall be in
14 addition to the Assistant Secretaries provided for under
15 section 203 of this Act.

16 “(c) It shall be the duty and responsibility of the As-
17 sistant Secretary for Science to carry out the fundamental
18 science and engineering research functions of the Depart-
19 ment, including the responsibility for policy and manage-
20 ment of such research, as well as other functions vested
21 in the Secretary which he may assign to the Assistant Sec-
22 retary.”.

23 (2) Notwithstanding section 3345(b)(1) of title 5,
24 United States Code, the President may designate the indi-
25 vidual serving as the Director of the Office of Science im-
26 mediately prior to the date of enactment of this Act to

1 act in the office of the Assistant Secretary of Energy for
2 Science until the office is filled as provided in section 209
3 of the Department of Energy Organization Act (41 U.S.C.
4 7139), as amended by paragraph (1) of this subsection.
5 While so acting, such individual shall receive compensation
6 at the rate provided under this Act for the office of Assist-
7 ant Secretary for Science.

8 (c) ADDITIONAL ASSISTANT SECRETARY POSITION
9 TO ENABLE IMPROVED MANAGEMENT OF NUCLEAR EN-
10 ERGY ISSUES.—(1) Section 203(a) of the Department of
11 Energy Organization Act (42 U.S.C. 7133(a)) is amended
12 by striking “There shall be in the Department six Assist-
13 ant Secretaries” and inserting “Except as provided in sec-
14 tion 209, there shall be in the Department seven Assistant
15 Secretaries”.

16 (2) It is the sense of the Congress that the leadership
17 for departmental missions in nuclear energy should be at
18 the Assistant Secretary level.

19 (d) TECHNICAL AND CONFORMING AMENDMENTS.—
20 (1) Section 202 of the Department of Energy Organiza-
21 tion Act (42 U.S.C. 7132) is further amended by adding
22 the following at the end:

23 “(d) There shall be in the Department an Under Sec-
24 retary, who shall be appointed by the President, by and
25 with the advice and consent of the Senate, and who shall

1 perform such functions and duties as the Secretary shall
2 prescribe, consistent with this section. The Under Sec-
3 retary shall be compensated at the rate provided for level
4 III of the Executive Schedule under section 5314 of title
5 5, United States Code.

6 “(e) There shall be in the Department a General
7 Counsel, who shall be appointed by the President, by and
8 with the advice and consent of the Senate, and who shall
9 perform such functions and duties as the Secretary shall
10 prescribe. The General Counsel shall be compensated at
11 the rate provided for level IV of the Executive Schedule
12 under section 5315 of title 5, United States Code.”.

13 (2) Section 5314 of title 5, United States Code, is
14 amended by striking “Under Secretaries of Energy (2)”
15 and inserting “Under Secretaries of Energy (3)”.

16 (3) Section 5315 of title 5, United States Code, is
17 amended—

18 (A) by striking “Director, Office of Science, De-
19 partment of Energy.”; and

20 (B) by striking “Assistant Secretaries of En-
21 ergy (6)” and inserting “Assistant Secretaries of
22 Energy (8)”.

23 (4) The table of contents for the Department of En-
24 ergy Organization Act (42 U.S.C. 7101 note) is
25 amended—

1 (A) by striking “Section 209” and inserting
2 “Sec. 209”;

3 (B) by striking “213.” and inserting “Sec.
4 213.”;

5 (C) by striking “214.” and inserting “Sec.
6 214.”;

7 (D) by striking “215.” and inserting “Sec.
8 215.”; and

9 (E) by striking “216.” and inserting “Sec.
10 216.”.]

11 **SEC. ___02. SMALL BUSINESS ADVOCACY AND ASSISTANCE.**

12 (a) **SMALL BUSINESS ADVOCATE.**—The Secretary
13 shall require the Director of each National Laboratory,
14 and may require the Director of a single-purpose research
15 facility, to designate a small business advocate to—

16 (1) increase the participation of small business
17 concerns, including socially and economically dis-
18 advantaged small business concerns, in procurement,
19 collaborative research, technology licensing, and
20 technology transfer activities conducted by the Na-
21 tional Laboratory or single-purpose research facility;

22 (2) report to the Director of the National Lab-
23 oratory or single-purpose research facility on the ac-
24 tual participation of small business concerns in pro-
25 curement and collaborative research along with rec-

1 ommendations, if appropriate, on how to improve
2 participation;

3 (3) make available to small businesses training,
4 mentoring, and information on how to participate in
5 procurement and collaborative research activities;

6 (4) increase the awareness inside the National
7 Laboratory or single-purpose research facility of the
8 capabilities and opportunities presented by small
9 business concerns; and

10 (5) establish guidelines for the program under
11 subsection (b) and report on the effectiveness of
12 such program to the Director of the National Lab-
13 oratory or single-purpose research facility.

14 (b) ESTABLISHMENT OF SMALL BUSINESS ASSIST-
15 ANCE PROGRAM.—The Secretary shall require the Direc-
16 tor of each National Laboratory, and may require the Di-
17 rector of a single-purpose research facility, to establish a
18 program to provide small business concerns—

19 (1) assistance directed at making them more ef-
20 fective and efficient subcontractors or suppliers to
21 the National Laboratory or single-purpose research
22 facility; or

23 (2) general technical assistance, the cost of
24 which shall not exceed \$10,000 per instance of as-

1 sistance, to improve the small business concerns’
2 products or services.

3 (c) USE OF FUNDS.—None of the funds expended
4 under subsection (b) may be used for direct grants to the
5 small business concerns.

6 (d) DEFINITIONS.—In this section:

7 (1) The term “small business concern” has the
8 meaning given such term in section 3 of the Small
9 Business Act (15 U.S.C. 632).

10 (2) The term “socially and economically dis-
11 advantaged small business concerns” has the mean-
12 ing given such term in section 8(a)(4) of the Small
13 Business Act (15 U.S.C. 637(a)(4)).

14 (e) AUTHORIZATION OF APPROPRIATIONS.—There
15 are authorized to be appropriated to the Secretary for ac-
16 tivities under this section \$5,000,000 for each of fiscal
17 years 2004 through 2008.

18 **SEC. ___03. MOBILITY OF SCIENTIFIC AND TECHNICAL**
19 **PERSONNEL.**

20 Not later than 2 years after the date of enactment
21 of this Act, the Secretary shall transmit a report to the
22 Congress identifying any policies or procedures of a con-
23 tractor operating a National Laboratory or single-purpose
24 research facility that create disincentives to the temporary
25 transfer of scientific and technical personnel among the

1 contractor-operated National Laboratories or contractor-
2 operated single-purpose research facilities and provide
3 suggestions for improving interlaboratory exchange of sci-
4 entific and technical personnel.

5 **SEC. ____04. NATIONAL ACADEMY OF SCIENCES REPORT.**

6 Not later than 90 days after the date of enactment
7 of this Act, the Secretary shall enter into an arrangement
8 with the National Academy of Sciences for the Academy
9 to—

10 (1) conduct a study on—

11 (A) the obstacles to accelerating the re-
12 search, development, demonstration, and com-
13 mercial application cycle for energy technology;
14 and

15 (B) the adequacy of Department policies
16 and procedures for, and oversight of, technology
17 transfer-related disputes between contractors of
18 the Department and the private sector; and

19 (2) transmit a report to the Congress on rec-
20 ommendations developed as a result of the study.

21 **SEC. ____05. OUTREACH.**

22 The Secretary shall ensure that each program au-
23 thorized by this title [and the Research and Development
24 title] includes an outreach component to provide informa-
25 tion, as appropriate, to manufacturers, consumers, engi-

1 neers, architects, builders, energy service companies, insti-
2 tutions of higher education, facility planners and man-
3 agers, State and local governments, and other entities.

4 **SEC. ___06. COMPETITIVE AWARD OF MANAGEMENT CON-**
5 **TRACTS.**

6 None of the funds authorized to be appropriated to
7 the Secretary by this title [and the Research and Develop-
8 ment title] may be used to award a management and op-
9 erating contract for a nonmilitary energy laboratory of the
10 Department unless such contract is competitively awarded
11 or the Secretary grants, on a case-by-case basis, a waiver
12 to allow for such a deviation. The Secretary may not dele-
13 gate the authority to grant such a waiver and shall submit
14 to the Congress a report notifying the Congress of the
15 waiver and setting forth the reasons for the waiver at least
16 60 days prior to the date of the award of such a contract.

17 **SEC. ___07. EDUCATIONAL PROGRAMS IN SCIENCE AND**
18 **MATHEMATICS**

19 (a) Section 3165(a) of the Department of Energy
20 Science Education Enhancement Act (42 U.S.C.
21 7381b(a)) is amended by adding at the end:

22 “(14) Support competitive events for students,
23 under supervision of teachers, designed to encourage
24 student interest and knowledge in science and math-
25 ematics.”.

1 (b) Section 3169 of the Department of Energy
2 Science Education Enhancement Act (42 U.S.C. 7381e),
3 as so redesignated by this Act, is amended by inserting
4 before the period “; and \$40,000,000 for each of fiscal
5 years 2004 through 2008”.

6 **SEC. ___ 08. OTHER TRANSACTIONS AUTHORITY.**

7 Section 646 of the Department of Energy Organiza-
8 tion act (42 U.S.C. 7256) is amended by adding at the
9 end the following:

10 “(g)(1) In addition to other authorities granted to the
11 Secretary under law, the Secretary may enter into other
12 transactions on such terms as the Secretary may deem
13 appropriate in furtherance of research, development, or
14 demonstration functions vested in the Secretary. Such
15 other transactions shall not be subject to the provisions
16 of section 9 of the Federal Nonnuclear Energy Research
17 and Development Act of 1974 (42 U.S.C. 5908).

18 “(2)(A) The Secretary shall ensure that—

19 “(i) to the maximum extent the Secretary de-
20 termines practicable, no transaction entered into
21 under paragraph (1) provides for research, develop-
22 ment, or demonstration that duplicates research, de-
23 velopment, or demonstration being conducted under
24 existing projects carried out by the Department;

1 “(ii) to the extent the Secretary determines
2 practicable, the funds provided by the Government
3 under a transaction authorized by paragraph (1) do
4 not exceed the total amount provided by other par-
5 ties to the transaction; and

6 “(iii) to the extent the Secretary determines
7 practicable, competitive, merit-based selection proce-
8 dures shall be used when entering into transactions
9 under paragraph (1).

10 “(B) A transaction authorized by paragraph (1) may
11 be used for a research, development, or demonstration
12 project only if the Secretary determines the use of a stand-
13 ard contract, grant, or cooperative agreement for the
14 project is not feasible or appropriate.

15 “(3)(A) The Secretary shall protect from disclosure,
16 including disclosure under section 552 of title 5, United
17 States Code, for up to 5 years after the date the informa-
18 tion is received by the Secretary—

19 “(i) a proposal, proposal abstract, and sup-
20 porting documents submitted to the Department in
21 a competitive or noncompetitive process having the
22 potential for resulting in an award under paragraph
23 (1) to the party submitting the information; and

24 “(ii) a business plan and technical information
25 relating to a transaction authorized by paragraph

1 (1) submitted to the Department as confidential
2 business information.

3 “(B) The Secretary shall protect from disclosure, for
4 up to 5 years after the information was developed, any
5 information developed pursuant to a transaction under
6 paragraph (1) which developed information is of a char-
7 acter that it would be protected from disclosure under sec-
8 tion 552(b)(4) of title 5, United States Code, if obtained
9 from a person other than a Federal agency.

10 “(4) Not later than 90 days after the date of enact-
11 ment of this subsection, the Secretary shall prescribe
12 guidelines for using other transactions authorized by para-
13 graph (1). Such guidelines shall be published in the Fed-
14 eral Register for public comment under rulemaking proce-
15 dures of the Department.

16 “(5) The authority of the Secretary under this sub-
17 section may be delegated only to an officer of the Depart-
18 ment who is appointed by the President by and with the
19 advice and consent of the Senate and may not be delegated
20 to any other person.”.】