

[DISCUSSION DRAFT]

SEPTEMBER 29, 2003

1 **TITLE X—DEPARTMENT OF**
2 **ENERGY MANAGEMENT**

3 **[SEC. 1001. 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. 1002. OTHER TRANSACTIONS AUTHORITY.**

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

15 “(g)(1) In addition to other authorities granted to the
16 Secretary under law, the Secretary may enter into other
17 transactions on such terms as the Secretary may deem
18 appropriate in furtherance of research, development, or
19 demonstration functions vested in the Secretary. Such
20 other transactions shall not be subject to the provisions
21 of section 9 of the Federal Nonnuclear Energy Research
22 and Development Act of 1974 (42 U.S.C. 5908) or section
23 152 of the Atomic Energy Act of 1954 (42 U.S.C. 2182).

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

1 “(i) to the maximum extent the Secretary de-
2 termines practicable, no transaction entered into
3 under paragraph (1) provides for research, develop-
4 ment, or demonstration that duplicates research, de-
5 velopment, or demonstration being conducted under
6 existing projects carried out by the Department;

7 “(ii) to the extent the Secretary determines
8 practicable, the funds provided by the Government
9 under a transaction authorized by paragraph (1) do
10 not exceed the total amount provided by other par-
11 ties to the transaction; and

12 “(iii) to the extent the Secretary determines
13 practicable, competitive, merit-based selection proce-
14 dures shall be used when entering into transactions
15 under paragraph (1).

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

21 “(3) The Secretary shall not disclose any trade secret
22 or commercial or financial information submitted by a
23 non-Federal entity under paragraph (1) that is regarded
24 by that entity as privileged or confidential.

1 “(4) Not later than 90 days after the date of enact-
2 ment of this subsection, the Secretary shall prescribe
3 guidelines for using other transactions authorized by para-
4 graphs (1) and (3). Such guidelines shall be published in
5 the Federal Register for public comment under rule-
6 making procedures of the Department.

7 “(5) The authority of the Secretary under this sub-
8 section may be delegated only to an officer of the Depart-
9 ment who is appointed by the President by and with the
10 advice and consent of the Senate and may not be delegated
11 to any other person.

12 “(6)(A) Not later than September 31, 2005, the
13 Comptroller General of the United States shall report to
14 the Congress on the Department’s use of the authorities
15 granted under this section, including the ability to attract
16 nontraditional government contractors and whether addi-
17 tional safeguards are needed with respect to the use of
18 such authorities.

19 “(B) In this section, the term ‘nontraditional Govern-
20 ment contractor’ has the same meaning as the term ‘non-
21 traditional defense contractor’ as defined in section 845(e)
22 of the National Defense Authorization Act for Fiscal Year
23 1994 (Public Law 103-160; 10 U.S.C. 2371 note).”.