

[CHAIRMEN'S PROPOSED CONFERENCE REPORT]

NOVEMBER 17, 2003

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

3   **SEC. 1001. ADDITIONAL ASSISTANT SECRETARY POSITION.**

4           (a) ADDITIONAL ASSISTANT SECRETARY POSITION  
5 TO ENABLE IMPROVED MANAGEMENT OF NUCLEAR EN-  
6 ERGY ISSUES.—

7           (1) IN GENERAL.—Section 203(a) of the De-  
8 partment of Energy Organization Act (42 U.S.C.  
9 7133(a)) is amended by striking “six Assistant Sec-  
10 retaries” and inserting “7 Assistant Secretaries”.

11           (2) SENSE OF CONGRESS.—It is the sense of  
12 Congress that the leadership for departmental mis-  
13 sions in nuclear energy should be at the Assistant  
14 Secretary level.

15           (b) TECHNICAL AND CONFORMING AMENDMENTS.—

16           (1) TITLE 5.—Section 5315 of title 5, United  
17 States Code, is amended by striking “Assistant Sec-  
18 retaries of Energy (6)” and inserting “Assistant  
19 Secretaries of Energy (7)”.

20           (2) DEPARTMENT OF ENERGY ORGANIZATION  
21 ACT.—The table of contents for the Department of  
22 Energy Organization Act (42 U.S.C. 7101 note) is  
23 amended—

1 (A) by striking “Section 209” and insert-  
2 ing “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 makes a written determina-  
19          tion that the use of a standard contract, grant, or coopera-  
20          tive agreement for the project is not feasible or appro-  
21          priate.

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

1           “(i) a proposal, proposal abstract, and sup-  
2           porting documents submitted to the Department in  
3           a competitive or noncompetitive process having the  
4           potential for resulting in an award under paragraph  
5           (1) to the party submitting the information; and

6           “(ii) a business plan and technical information  
7           relating to a transaction authorized by paragraph  
8           (1) submitted to the Department as confidential  
9           business information.

10          “(B) The Secretary may protect from disclosure, for  
11 up to 5 years after the information was developed, any  
12 information developed pursuant to a transaction under  
13 paragraph (1) which developed information is of a char-  
14 acter that it would be protected from disclosure under sec-  
15 tion 552(b)(4) of title 5, United States Code, if obtained  
16 from a person other than a Federal agency.

17          “(4) Not later than 90 days after the date of enact-  
18 ment of this subsection, the Secretary shall prescribe  
19 guidelines for using other transactions authorized by para-  
20 graph (1). Such guidelines shall be published in the Fed-  
21 eral Register for public comment under rulemaking proce-  
22 dures of the Department.

23          “(5) The authority of the Secretary under this sub-  
24 section may be delegated only to an officer of the Depart-  
25 ment who is appointed by the President by and with the

1 advice and consent of the Senate and may not be delegated  
2 to any other person.

3 “(6)(A) Not later than September 31, 2005, the  
4 Comptroller General of the United States shall report to  
5 Congress on the Department’s use of the authorities  
6 granted under this section, including the ability to attract  
7 nontraditional government contractors and whether addi-  
8 tional safeguards are needed with respect to the use of  
9 such authorities.

10 “(B) In this section, the term ‘nontraditional Govern-  
11 ment contractor’ has the same meaning as the term ‘non-  
12 traditional defense contractor’ as defined in section 845(e)  
13 of the National Defense Authorization Act for Fiscal Year  
14 1994 (Public Law 103-160; 10 U.S.C. 2371 note).”.