

TITLE X—DEPARTMENT OF ENERGY MANAGEMENT

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

3 **SEC. 1001. AVAILABILITY OF FUNDS.**

4 Funds authorized to be appropriated to the Depart-
5 ment under this Act or an amendment made by this Act
6 shall remain available until expended.

7 **SEC. 1002. COST SHARING.**

8 (a) APPLICABILITY.—Notwithstanding any other pro-
9 vision of law, in carrying out a research, development,
10 demonstration, or commercial application activity that is
11 initiated after the date of enactment of this section, the
12 Secretary shall require cost-sharing in accordance with
13 this section.

14 (b) RESEARCH AND DEVELOPMENT.—

15 (1) IN GENERAL.—Except as provided in para-
16 graphs (2) and (3) and subsection (f), the Secretary
17 shall require not less than 20 percent of the cost of

1 a research or development activity described in sub-
2 section (a) to be provided by a non-Federal source.

3 (2) EXCLUSION.—Paragraph (1) shall not apply
4 to a research or development activity described in
5 subsection (a) that is of a basic or fundamental na-
6 ture, as determined by the appropriate officer of the
7 Department.

8 (3) REDUCTION.—The Secretary may reduce or
9 eliminate the requirement of paragraph (1) for a re-
10 search and development activity of an applied nature
11 if the Secretary determines that the reduction is nec-
12 essary and appropriate.

13 (c) DEMONSTRATION AND COMMERCIAL APPLICA-
14 TION.—

15 (1) IN GENERAL.—Except as provided in para-
16 graph (2) and subsection (f), the Secretary shall re-
17 quire that not less than 50 percent of the cost of a
18 demonstration or commercial application activity de-
19 scribed in subsection (a) to be provided by a non-
20 Federal source.

21 (2) REDUCTION OF NON-FEDERAL SHARE.—
22 The Secretary may reduce the non-Federal share re-
23 quired under paragraph (1) if the Secretary deter-
24 mines the reduction to be necessary and appropriate,

1 taking into consideration any technological risk re-
2 lating to the activity.

3 (d) CALCULATION OF AMOUNT.—In calculating the
4 amount of a non-Federal contribution under this section,
5 the Secretary—

6 (1) may include allowable costs in accordance
7 with the applicable cost principles, including—

8 (A) cash;

9 (B) personnel costs;

10 (C) the value of a service, other resource,
11 or third party in-kind contribution determined
12 in accordance with the applicable circular of the
13 Office of Management and Budget;

14 (D) indirect costs or facilities and adminis-
15 trative costs; or

16 (E) any funds received under the power
17 program of the Tennessee Valley Authority (ex-
18 cept to the extent that such funds are made
19 available under an annual appropriation Acts);
20 and

21 (2) shall not include—

22 (A) revenues or royalties from the prospec-
23 tive operation of an activity beyond the time
24 considered in the award;

1 (B) proceeds from the prospective sale of
2 an asset of an activity; or

3 (C) other appropriated Federal funds.

4 (e) REPAYMENT OF FEDERAL SHARE.—The Sec-
5 retary shall not require repayment of the Federal share
6 of a cost-shared activity under this section as a condition
7 of making an award.

8 (f) EXCLUSIONS.—This section shall not apply to—

9 (1) a cooperative research and development
10 agreement under the Stevenson-Wydler Technology
11 Innovation Act of 1990 (15 U.S.C. 3701 et seq.);

12 (2) a fee charged for the use of a Department
13 facility; or

14 (3) an award under—

15 (A) the small business innovation research
16 program under section 9 of the Small Business
17 Act (15 U.S.C. 638); or

18 (B) the small business technology transfer
19 program under that section.

20 **SEC. 1003. MERIT REVIEW OF PROPOSALS.**

21 Awards of funds authorized under this Act or an
22 amendment made by this Act shall be made only after an
23 impartial review of the scientific and technical merit of
24 the proposals for the awards has been carried out by or
25 for the Department.

1 **SEC. 1004. EXTERNAL TECHNICAL REVIEW OF DEPART-**
2 **MENTAL PROGRAMS.**

3 (a) NATIONAL ENERGY RESEARCH AND DEVELOP-
4 MENT ADVISORY BOARDS.—

5 (1) ESTABLISHMENT.—The Secretary shall es-
6 tablish 1 or more advisory boards to review research,
7 development, demonstration, and commercial appli-
8 cation programs of the Department in energy effi-
9 ciency, renewable energy, nuclear energy, and fossil
10 energy.

11 (2) ALTERNATIVES.—The Secretary may—

12 (A) designate an existing advisory board
13 within the Department to fulfill the responsibil-
14 ities of an advisory board under this section;
15 and

16 (B) enter into appropriate arrangements
17 with the National Academy of Sciences to es-
18 tablish such an advisory board.

19 (b) USE OF EXISTING COMMITTEES.—The Secretary
20 shall continue to use the scientific program advisory com-
21 mittees chartered under the Federal Advisory Committee
22 Act (5 U.S.C. App.) by the Office of Science to oversee
23 research and development programs under that Office.

24 (c) MEMBERSHIP.—Each advisory board under this
25 section shall consist of persons with appropriate expertise
26 representing a diverse range of interests.

1 (d) MEETINGS AND GOALS.—

2 (1) MEETINGS.—Each advisory board under
3 this section shall meet at least semiannually to re-
4 view and advise on the progress made by the respec-
5 tive 1 or more research, development, demonstration,
6 and commercial application programs.

7 (2) GOALS.—The advisory board shall review
8 the measurable cost and performance-based goals for
9 the programs as established under section 902, and
10 the progress on meeting the goals.

11 (e) PERIODIC REVIEWS AND ASSESSMENTS.—

12 (1) IN GENERAL.—The Secretary shall enter
13 into appropriate arrangements with the National
14 Academy of Sciences to conduct periodic reviews and
15 assessments of—

16 (A) the programs authorized by this Act
17 and amendments made by this Act;

18 (B) the measurable cost and performance-
19 based goals for the programs as established
20 under section 902, if any; and

21 (C) the progress on meeting the goals.

22 (2) TIMING.—The reviews and assessments
23 shall be conducted every 5 years or more often as
24 the Secretary considers necessary.

1 (3) REPORTS.—The Secretary shall submit to
2 Congress reports describing the results of all the re-
3 views and assessments.

4 **SEC. 1005. IMPROVED TECHNOLOGY TRANSFER OF ENERGY**
5 **TECHNOLOGIES.**

6 (a) TECHNOLOGY TRANSFER COORDINATOR.—The
7 Secretary shall appoint a Technology Transfer Coordi-
8 nator to be the principal advisor to the Secretary on all
9 matters relating to technology transfer and commercializa-
10 tion.

11 (b) QUALIFICATIONS.—The Coordinator shall be an
12 individual who, by reason of professional background and
13 experience, is specially qualified to advise the Secretary
14 on matters pertaining to technology transfer at the De-
15 partment.

16 (c) DUTIES OF THE COORDINATOR.—The Coordi-
17 nator shall oversee—

18 (1) the activities of the Technology Transfer
19 Working Group established under subsection (d);

20 (2) the expenditure of funds allocated for tech-
21 nology transfer within the Department;

22 (3) the activities of each technology partnership
23 ombudsman appointed under section 11 of the Tech-
24 nology Transfer Commercialization Act of 2000 (42
25 U.S.C. 7261c); and

1 (4) efforts to engage private sector entities, in-
2 cluding venture capital companies.

3 (d) TECHNOLOGY TRANSFER WORKING GROUP.—

4 The Secretary shall establish a Technology Transfer
5 Working Group, which shall consist of representatives of
6 the National Laboratories and single-purpose research fa-
7 cilities, to—

8 (1) coordinate technology transfer activities oc-
9 ccurring at National Laboratories and single-purpose
10 research facilities;

11 (2) exchange information about technology
12 transfer practices, including alternative approaches
13 to resolution of disputes involving intellectual prop-
14 erty rights and other technology transfer matters;
15 and

16 (3) develop and disseminate to the public and
17 prospective technology partners information about
18 opportunities and procedures for technology transfer
19 with the Department, including opportunities and
20 procedures related to alternative approaches to reso-
21 lution of disputes involving intellectual property
22 rights and other technology transfer matters.

23 (e) TECHNOLOGY COMMERCIALIZATION FUND.—The
24 Secretary shall establish an Energy Technology Commer-
25 cialization Fund, using 0.5 percent of the amount made

1 available to the Department for each fiscal year, to be
2 used to provide matching funds with private partners to
3 promote promising technologies for commercial purposes.

4 (f) TECHNOLOGY TRANSFER RESPONSIBILITY.—
5 Nothing in this section affects the technology transfer re-
6 sponsibilities of Federal employees under the Stevenson-
7 Wydler Technology Innovation Act of 1980 (15 U.S.C.
8 3701 et seq.).

9 (g) PLANNING AND REPORTING.—

10 (1) IN GENERAL.—Not later than 180 days
11 after the date of enactment of this Act, the Sec-
12 retary shall submit to Congress a technology trans-
13 fer execution plan.

14 (2) UPDATES.—Each year after the submission
15 of the plan under paragraph (1), the Secretary shall
16 submit to Congress an updated execution plan and
17 reports that describe progress toward meeting goals
18 set forth in the execution plan and the funds ex-
19 pended under subsection (e).

20 **SEC. 1006. TECHNOLOGY INFRASTRUCTURE PROGRAM.**

21 (a) DEFINITIONS.—In this section:

22 (1) PROGRAM.—The term “Program” means
23 the Technology Infrastructure Program established
24 under subsection (b).

1 (2) TECHNOLOGY CLUSTER.—The term “tech-
2 nology cluster” means a concentration of technology-
3 related business concerns, institutions of higher edu-
4 cation, or nonprofit institutions, that reinforce each
5 other’s performance in the areas of technology devel-
6 opment through formal or informal relationships.

7 (3) TECHNOLOGY-RELATED BUSINESS CON-
8 CERN.—The term “technology-related business con-
9 cern” means a for-profit corporation, company, asso-
10 ciation, firm, partnership, or small business concern
11 that—

12 (A) conducts scientific or engineering re-
13 search;

14 (B) develops new technologies;

15 (C) manufactures products based on new
16 technologies; or

17 (D) performs technological services.

18 (b) ESTABLISHMENT.—The Secretary shall establish
19 a Technology Infrastructure Program in accordance with
20 this section.

21 (c) PURPOSE.—The purpose of the Program shall be
22 to improve the ability of National Laboratories and single-
23 purpose research facilities to support departmental mis-
24 sions by—

1 (1) stimulating the development of technology
2 clusters that can support departmental missions at
3 the National Laboratories or single-purpose research
4 facilities;

5 (2) improving the ability of National Labora-
6 tories and single-purpose research facilities to lever-
7 age and benefit from commercial research, tech-
8 nology, products, processes, and services; and

9 (3) encouraging the exchange of scientific and
10 technological expertise between—

11 (A) National Laboratories or single-pur-
12 pose research facilities; and

13 (B) entities that can support departmental
14 missions at the National Laboratories or single-
15 purpose research facilities, such as—

16 (i) institutions of higher education;

17 (ii) technology-related business con-
18 cerns;

19 (iii) nonprofit institutions; and

20 (iv) agencies of State, tribal, or local
21 governments.

22 (d) PROJECTS.—The Secretary shall authorize the di-
23 rector of each National Laboratory or single-purpose re-
24 search facility to implement the Program at the National

1 Laboratory or facility through 1 or more projects that
2 meet the requirements of subsections (e) and (f).

3 (e) PROGRAM REQUIREMENTS.—

4 (1) IN GENERAL.—Each project funded under
5 this section shall meet the requirements of this sub-
6 section.

7 (2) ENTITIES.—Each project shall include at
8 least 1 of each of the following entities:

9 (A) A business.

10 (B) An institution of higher education.

11 (C) A nonprofit institution.

12 (D) An agency of a State, local, or tribal
13 government.

14 (3) COST-SHARING.—

15 (A) IN GENERAL.—The costs of carrying
16 out projects under this section shall be shared
17 in accordance with section [1002].

18 (B) SOURCES.—The calculation of costs
19 paid by the non-Federal sources for a project
20 shall include cash, personnel, services, equip-
21 ment, and other resources expended on the
22 project after the commencement of the project.

23 (C) RESEARCH AND DEVELOPMENT EX-
24 PENSES.—Independent research and develop-
25 ment expenses of Government contractors that

1 qualify for reimbursement under section
2 31.205–18(e) of title 48, Code of Federal Regu-
3 lations, issued pursuant to section 25(c)(1) of
4 the Office of Federal Procurement Policy Act
5 (41 U.S.C. 421(c)(1)), may be credited towards
6 costs paid by non-Federal sources to a project,
7 if the expenses meet the other requirements of
8 this section.

9 (4) COMPETITIVE SELECTION.—A project under
10 this section shall be competitively selected using pro-
11 cedures determined by the Secretary.

12 (5) ACCOUNTING.—Any participant that re-
13 ceives funds under this section may use generally ac-
14 cepted accounting principles for maintaining ac-
15 counts, books, and records relating to the project.

16 (6) DURATION.—No Federal funds shall be
17 made available under this section for a construction
18 project or for any project with a duration of more
19 than 5 years.

20 (f) SELECTION CRITERIA.—

21 (1) DEPARTMENTAL MISSIONS.—The Secretary
22 shall allocate funds under this section only if the Di-
23 rector of the National Laboratory or single-purpose
24 research facility managing the project determines
25 that the project is likely to improve the ability of the

1 National Laboratory or single-purpose research facil-
2 ity to achieve technical success in meeting depart-
3 mental missions.

4 (2) OTHER CRITERIA.—In selecting a project to
5 receive Federal funds, the Secretary shall consider—

6 (A) the potential of the project to promote
7 the development of a commercially sustainable
8 technology cluster following the period of invest-
9 ment by the Department, which will derive most
10 of the demand for its products or services from
11 the private sector, and which will support de-
12 partmental missions at the participating Na-
13 tional Laboratory or single-purpose research fa-
14 cility;

15 (B) the potential of the project to promote
16 the use of commercial research, technology,
17 products, processes, and services by the partici-
18 pating National Laboratory or single-purpose
19 research facility to achieve its mission or the
20 commercial development of technological inno-
21 vations made at the participating National Lab-
22 oratory or single-purpose research facility;

23 (C) the extent to which the project involves
24 a wide variety and number of institutions of
25 higher education, nonprofit institutions, and

1 technology-related business concerns that can
2 support the missions of the participating Na-
3 tional Laboratory or single-purpose research fa-
4 cility and that will make substantive contribu-
5 tions to achieving the goals of the project;

6 (D) the extent to which the project focuses
7 on promoting the development of technology-re-
8 lated business concerns that are small busi-
9 nesses or involves such small businesses sub-
10 stantively in the project; and

11 (E) such other criteria as the Secretary de-
12 termines to be appropriate.

13 (g) ALLOCATION.—In allocating funds for projects
14 approved under this section, the Secretary shall provide—

15 (1) the Federal share of the project costs; and

16 (2) additional funds to the National Laboratory
17 or single-purpose research facility managing the
18 project to permit the National Laboratory or single-
19 purpose research facility to carry out activities relat-
20 ing to the project, and to coordinate the activities
21 with the project.

22 (h) REPORT TO CONGRESS.—Not later than July 1,
23 2008, the Secretary shall submit to Congress a report on
24 whether the Program should be continued and, if so, how
25 the program should be managed.

1 (i) AUTHORIZATION OF APPROPRIATIONS.—There
2 are authorized to be appropriated to the Secretary for ac-
3 tivities under this section \$10,000,000 for each of fiscal
4 years 2006 through 2008.

5 **SEC. 1007. SMALL BUSINESS ADVOCACY AND ASSISTANCE.**

6 (a) SMALL BUSINESS ADVOCATE.—The Secretary
7 shall require the Director of each National Laboratory,
8 and may require the Director of a single-purpose research
9 facility, to designate a small business advocate to—

10 (1) increase the participation of small business
11 concerns, including socially and economically dis-
12 advantaged small business concerns (as defined in
13 section 8(a)(4) of the Small Business Act (15 U.S.C.
14 637(a)(4))), in procurement, collaborative research,
15 technology licensing, and technology transfer activi-
16 ties conducted by the National Laboratory or single-
17 purpose research facility;

18 (2) report to the Director of the National Lab-
19 oratory or single-purpose research facility on the ac-
20 tual participation of small business concerns in pro-
21 curement and collaborative research along with rec-
22 ommendations, if appropriate, on how to improve
23 participation;

24 (3) make available to small business concerns
25 training, mentoring, and information on how to par-

1 ticipate in procurement and collaborative research
2 activities;

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

7 (5) establish guidelines for the program under
8 subsection (b) and report on the effectiveness of the
9 program to the Director of the National Laboratory
10 or single-purpose research facility.

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

16 (1) assistance directed at making the small
17 business concerns more effective and efficient sub-
18 contractors or suppliers to the National Laboratory
19 or single-purpose research facilities; or

20 (2) general technical assistance, the cost of
21 which shall not exceed \$10,000 per instance of as-
22 sistance, to improve the products or services of the
23 small business concern.

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

4 (d) AUTHORIZATION OF APPROPRIATIONS.—There is
5 authorized to be appropriated to the Secretary for activi-
6 ties under this section \$5,000,000 for each of fiscal years
7 2006 through 2008.

8 **SEC. 1008. OUTREACH.**

9 The Secretary shall ensure that each program au-
10 thorized by this Act or an amendment made by this Act
11 includes an outreach component to provide information,
12 as appropriate, to manufacturers, consumers, engineers,
13 architects, builders, energy service companies, institutions
14 of higher education, facility planners and managers, State
15 and local governments, and other entities.

16 **SEC. 1009. REPROGRAMMING.**

17 (a) DISTRIBUTION REPORT.—Not later than 60 days
18 after the date of enactment of a law appropriating
19 amounts authorized under this Act or an amendment
20 made by this Act, the Secretary shall transmit to the ap-
21 propriate authorizing committees of Congress a report de-
22 scribing how the amounts will be distributed among the
23 authorizations made by this Act or the amendment made
24 by this Act.

25 (b) PROHIBITION ON REPROGRAMMING.—

1 (1) IN GENERAL.—No amount described under
2 subsection (a) shall be reprogrammed if the re-
3 programming would result in an obligation that
4 changes an individual distribution required to be re-
5 ported under subsection (a) by more than 5 percent
6 unless—

7 (A) the Secretary has transmitted to the
8 appropriate authorizing committees of Congress
9 a report described in subsection (c); and

10 (B) a period of 30 days has elapsed after
11 the committees receive the report.

12 (2) COMPUTATION OF 30-DAY PERIOD.—In the
13 computation of the 30-day period described in para-
14 graph (1), there shall be excluded any day on which
15 either House of Congress is not in session because
16 of an adjournment of more than 3 days to a day cer-
17 tain.

18 (c) REPROGRAMMING REPORT.—A report described
19 in subsection (b)(1) shall contain a full and complete de-
20 scription of the action proposed to be taken and the facts
21 and circumstances relied on in support of the proposed
22 action.

23 **SEC. 1010. RELATIONSHIP TO OTHER LAWS.**

24 Except as otherwise provided in this Act or an
25 amendment made by this Act, the Secretary shall carry

1 out the research, development, demonstration, and com-
2 mercial application programs, projects, and activities au-
3 thorized by this Act or an amendment made by this Act
4 in accordance with the applicable provisions of—

5 (1) the Atomic Energy Act of 1954 (42 U.S.C.
6 2011 et seq.);

7 (2) the Federal Nonnuclear Energy Research
8 and Development Act of 1974 (42 U.S.C. 5901 et
9 seq.);

10 (3) the Energy Policy Act of 1992 (42 U.S.C.
11 13201 et seq.);

12 (4) the Stevenson-Wydler Technology Innova-
13 tion Act of 1980 (15 U.S.C. 3701 et seq.);

14 (5) chapter 18 of title 35, United States Code
15 (commonly known as the “Bayh-Dole Act”); and

16 (6) any other Act under which the Secretary is
17 authorized to carry out the programs, projects, and
18 activities.

19 **SEC. 1011. IMPROVED COORDINATION AND MANAGEMENT**
20 **OF CIVILIAN SCIENCE AND TECHNOLOGY**
21 **PROGRAMS.**

22 (a) **EFFECTIVE TOP-LEVEL COORDINATION OF RE-**
23 **SEARCH AND DEVELOPMENT PROGRAMS.**—Section 202 of
24 the Department of Energy Organization Act (42 U.S.C.

1 7132) is amended by striking subsection (b) and inserting
2 the following:

3 “(b)(1) There shall be in the Department an Under
4 Secretary for Energy and Science, who shall be appointed
5 by the President, by and with the advice and consent of
6 the Senate.

7 “(2) The Under Secretary shall be compensated at
8 the rate provided for level III of the Executive Schedule
9 under section 5314 of title 5, United States Code.

10 “(3) The Under Secretary for Energy and Science
11 shall be appointed from among persons who—

12 “(A) have extensive background in scientific or
13 engineering fields; and

14 “(B) are well qualified to manage the civilian
15 research and development programs of the Depart-
16 ment.

17 “(4) The Under Secretary for Energy and Science
18 shall—

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

21 “(B) monitor the research and development
22 programs of the Department in order to advise the
23 Secretary with respect to any undesirable duplication
24 or gaps in the programs;

1 “(C) advise the Secretary with respect to the
2 well-being and management of the multipurpose lab-
3 oratories under the jurisdiction of the Department;

4 “(D) advise the Secretary with respect to edu-
5 cation and training activities required for effective
6 short- and long-term basic and applied research ac-
7 tivities of the Department;

8 “(E) advise the Secretary with respect to grants
9 and other forms of financial assistance required for
10 effective short- and long-term basic and applied re-
11 search activities of the Department; and

12 “(F) exercise authority and responsibility over
13 Assistant Secretaries carrying out energy research
14 and development and energy technology functions
15 under sections 203 and 209, as well as other ele-
16 ments of the Department assigned by the Sec-
17 retary.”.

18 (b) RECONFIGURATION OF POSITION OF DIRECTOR
19 OF THE OFFICE OF SCIENCE.—

20 (1) IN GENERAL.—Section 209 of the Depart-
21 ment of Energy Organization Act (41 U.S.C. 7139)
22 is amended to read as follows:

23 “OFFICE OF SCIENCE

24 “SEC. 209. (a) There shall be within the Department
25 an Office of Science, to be headed by an Assistant Sec-
26 retary for Science, who shall be appointed by the Presi-

1 dent, by and with the advice and consent of the Senate,
2 and who shall be compensated at the rate provided for
3 level IV of the Executive Schedule under section 5315 of
4 title 5, United States Code.

5 “(b) The Assistant Secretary for Science shall be in
6 addition to the Assistant Secretaries provided for under
7 section 203.

8 “(c) It shall be the duty and responsibility of the As-
9 sistant Secretary for Science to carry out the fundamental
10 science and engineering research functions of the Depart-
11 ment, including the responsibility for policy and manage-
12 ment of the research, as well as other functions vested in
13 the Secretary that the Secretary may assign to the Assist-
14 ant Secretary.”.

15 (2) DIRECTOR OF THE OFFICE OF SCIENCE.—

16 (A) IN GENERAL.—Notwithstanding sec-
17 tion 3345(b)(1) of title 5, United States Code,
18 the President may designate the Director of the
19 Office of Science who served immediately before
20 the date of enactment of this Act to act in the
21 office of the Assistant Secretary of Energy for
22 Science until the office is filled as provided in
23 section 209 of the Department of Energy Orga-
24 nization Act (as amended by paragraph (1)).

1 (B) COMPENSATION.—While so acting, the
2 person shall receive compensation at the rate
3 provided by section 209(a) of that Act (as
4 amended by paragraph (1)) for the office of As-
5 sistant Secretary for Science.

6 (c) ADDITIONAL ASSISTANT SECRETARY POSITION
7 TO ENABLE IMPROVED MANAGEMENT OF NUCLEAR EN-
8 ERGY ISSUES.—

9 (1) IN GENERAL.—Section 203(a) of the De-
10 partment of Energy Organization Act (42 U.S.C.
11 7133(a)) is amended in the first sentence by striking
12 “There shall be in the Department six Assistant
13 Secretaries” and inserting “Except as provided in
14 section 209, there shall be in the Department 7 As-
15 sistant Secretaries”.

16 (2) ASSISTANT SECRETARY LEVEL.—It is the
17 sense of Congress that the leadership for depart-
18 mental missions in nuclear energy should be at the
19 Assistant Secretary level.

20 (d) TECHNICAL AND CONFORMING AMENDMENTS.—

21 (1) Section 202 of the Department of Energy
22 Organization Act (42 U.S.C. 7132) (as amended by
23 subsection (b)(1)) is amended by adding at the end
24 the following:

1 “(d)(1) There shall be in the Department an Under
2 Secretary, who shall be appointed by the President, by and
3 with the advice and consent of the Senate, and who shall
4 perform such functions and duties as the Secretary shall
5 prescribe, consistent with this section.

6 “(2) The Under Secretary shall be compensated at
7 the rate provided for level III of the Executive Schedule
8 under section 5314 of title 5, United States Code.

9 “(e)(1) There shall be in the Department a General
10 Counsel, who shall be appointed by the President, by and
11 with the advice and consent of the Senate, and who shall
12 perform such functions and duties as the Secretary shall
13 prescribe.

14 “(2) The General Counsel shall be compensated at
15 the rate provided for level IV of the Executive Schedule
16 under section 5315 of title 5, United States Code.”.

17 (2) Section 5314 of title 5, United States Code,
18 is amended by striking “Under Secretaries of En-
19 ergy (2)” and inserting “Under Secretaries of En-
20 ergy (3)”.

21 (3) Section 5315 of title 5, United States Code,
22 is amended—

23 (A) by striking “Assistant Secretaries of
24 Energy (6)” and inserting “Assistant Secre-
25 taries of Energy (8)”; and

1 (B) by striking “Director, Office of
2 Science, Department of Energy.”.

3 **SEC. 1012. OTHER TRANSACTIONS AUTHORITY.**

4 Section 646 of the Department of Energy Organiza-
5 tion Act (42 U.S.C. 7256) is amended by adding at the
6 end the following:

7 “(g)(1) In addition to other authorities granted to the
8 Secretary under any other provision of law, the Secretary
9 may enter into other transactions on such terms as the
10 Secretary may consider appropriate in furtherance of re-
11 search, development, or demonstration functions vested in
12 the Secretary.

13 “(2) The other transactions shall not be subject to
14 section 9 of the Federal Nonnuclear Energy Research and
15 Development Act of 1974 (42 U.S.C. 5908).

16 “(3)(A) The Secretary shall ensure that—

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

23 “(ii) to the extent the Secretary determines
24 practicable, the funds provided by the Federal Gov-
25 ernment under a transaction authorized by para-

1 graph (1) do not exceed the total amount provided
2 by other parties to the transaction; and

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

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

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

16 “(i) a proposal, proposal abstract, and sup-
17 porting documents submitted to the Department in
18 a competitive or noncompetitive process having the
19 potential for resulting in an award to the party sub-
20 mitting the information entering into a transaction
21 under paragraph (1); and

22 “(ii) a business plan and technical information
23 relating to a transaction authorized by paragraph
24 (1) submitted to the Department as confidential
25 business information.

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

8 “(5)(A) Not later than 90 days after the date of en-
9 actment of this subsection, the Secretary shall prescribe
10 guidelines for using other transactions authorized by para-
11 graph (1).

12 “(B) The guidelines shall be published in the Federal
13 Register for public comment under rulemaking procedures
14 of the Department.

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

20 **SEC. 1013. PRIZES FOR ACHIEVEMENT IN GRAND CHAL-**
21 **LENGES OF SCIENCE AND TECHNOLOGY.**

22 (a) **AUTHORITY.**—The Secretary may carry out a
23 program to award cash prizes in recognition of break-
24 through achievements in research, development, dem-
25 onstration, and commercial application that have the po-

1 tential for application to the performance of the mission
2 of the Department.

3 (b) COMPETITION REQUIREMENTS.—The program
4 under subsection (a) may include prizes for the achieve-
5 ment of goals articulated by the Secretary in a specific
6 area through a widely advertised solicitation of submission
7 of results for research, development, demonstration, or
8 commercial application projects.

9 (c) RELATIONSHIP TO OTHER AUTHORITY.—The
10 program under subsection (a) may be carried out in con-
11 junction with or in addition to the exercise of any other
12 authority of the Secretary to acquire, support, or stimulate
13 research, development, demonstration, or commercial ap-
14 plication projects.

15 **[SEC. 1014. TECHNICAL CORRECTIONS.]**

16 (a) COAL RESEARCH AND DEVELOPMENT.—

17 (1) IN GENERAL.—Public Law 86–599 (30
18 U.S.C. 661 et seq.) is amended—

19 (A) by striking the first section (30 U.S.C.
20 661) and inserting the following:

21 “SECTION 1. (a) This Act may be cited as the ‘Coal
22 Research and Development Act of 1960’.

23 “(b) In this Act:

1 “(1) The term ‘research’ means scientific, tech-
2 nical, and economic research and the practical appli-
3 cation of that research.

4 “(2) The term ‘Secretary’ means the Secretary
5 of Energy.”;

6 (B) in section 2 (30 U.S.C. 662), by strik-
7 ing “shall establish within” and all that follows
8 through “such Office”;

9 (C) by striking sections 3, 4, and 7 (30
10 U.S.C. 663, 664, 667); and

11 (D) by redesignating sections 5, 6, and 8
12 (30 U.S.C. 665, 666, 668) as sections 3, 4, and
13 5, respectively.

14 (2) PATENTS.—Section 210(a)(8) of title 35,
15 United States Code, is amended by striking “Coal
16 Research Development Act of 1960” and inserting
17 “Coal Research and Development Act of 1960”.

18 (b) NONNUCLEAR ENERGY RESEARCH AND DEVEL-
19 OPMENT.—

20 (1) SHORT TITLE; DEFINITIONS.—Section 1 of
21 the Federal Nonnuclear Energy Research and Devel-
22 opment Act of 1974 (42 U.S.C. 5902) is amended
23 to read as follows:

1 “SHORT TITLE AND DEFINITIONS

2 “SECTION 1. (a) This Act may be cited as the ‘Fed-
3 eral Nonnuclear Energy Research and Development Act
4 of 1974’.

5 “(b) In this Act:

6 “(1) The term ‘Department’ means the Depart-
7 ment of Energy.

8 “(2) The term ‘Secretary’ means the Secretary
9 of Energy.”.

10 (2) STATEMENT OF POLICY.—Section 3(b) of
11 the Federal Nonnuclear Energy Research and Devel-
12 opment Act of 1974 (42 U.S.C. 5902(b)) is
13 amended—

14 (A) in paragraph (1), by striking “Energy
15 Research and Development Administration”
16 and inserting “Department”;

17 (B) in paragraph (2), by striking “Admin-
18 istrator of the Energy Research and Develop-
19 ment Administration (hereinafter in this Act re-
20 ferred to as the ‘Administrator’)” and inserting
21 “Secretary”; and

22 (C) in paragraph (3)—

23 (i) by striking “Administrator” and
24 inserting “Secretary”; and

1 (ii) by inserting “Demonstration”
2 after “Cooling”.

3 (3) DUTIES AND AUTHORITIES.—Section 4 of
4 the Federal Nonnuclear Energy Research and Devel-
5 opment Act of 1974 (42 U.S.C. 5903) is amended—

6 (A) by striking the section heading and in-
7 serting the following:

8 “DUTIES AND AUTHORITIES OF THE SECRETARY”;

9 and

10 (B) in the matter preceding subsection (a),
11 by striking “Administrator” and inserting “Sec-
12 retary”.

13 (4) COMPREHENSIVE PLANNING AND PROGRAM-
14 MING.—Section 6 of the Federal Nonnuclear Energy
15 Research and Development Act of 1974 (42 U.S.C.
16 5905) is amended—

17 (A) by striking “Administrator” each place
18 it appears and inserting “Secretary”; and

19 (B) in subsection (b)(3)—

20 (i) in subparagraph (I), by inserting
21 “Demonstration” after “Cooling”; and

22 (ii) in subparagraph (L), by inserting
23 “Energy” after “Solar”.

24 (5) FORMS OF FEDERAL ASSISTANCE.—Section
25 7 of the Federal Nonnuclear Energy Research and

1 Development Act of 1974 (42 U.S.C. 5906) is
2 amended—

3 (A) by striking “Administrator” each place
4 it appears and inserting “Secretary”; and

5 (B) in subsection (a)(4), by striking “of
6 the section”.

7 (6) DEMONSTRATIONS.—Section 8 of the Fed-
8 eral Nonnuclear Energy Research and Development
9 Act of 1974 (42 U.S.C. 5907) is amended—

10 (A) in subsections (a) through (c), by
11 striking “Administrator” each place it appears
12 and inserting “Secretary”;

13 (B) in subsection (d)—

14 (i) in the first sentence of paragraph
15 (1), by inserting “of the Energy Research
16 and Development Administration” after
17 “Administrator”; and

18 (ii) in paragraph (3), by striking “Ad-
19 ministrator” and inserting “Secretary”;
20 and

21 (C) in subsection (f)—

22 (i) by striking “Administrator” each
23 place it appears and inserting “Secretary”;
24 and

1 (ii) in the proviso of the first sen-
2 tence, by striking “Administrator’s” and
3 inserting “Secretary’s”.

4 (7) PATENT POLICY.—Section 9 of the Federal
5 Nonnuclear Energy Research and Development Act
6 of 1974 (42 U.S.C. 5908) is amended—

7 (A) by striking “Administration” each
8 place it appears and inserting “Department”;

9 (B) by striking “Administrator” each place
10 it appears and inserting “Secretary”; and

11 (C) in subsection (c)(3), by striking “Ad-
12 ministration’s” and inserting “Department’s”.

13 (8) ACQUISITION OF ESSENTIAL MATERIALS.—
14 Section 12 of the Federal Nonnuclear Energy Re-
15 search and Development Act of 1974 (42 U.S.C.
16 5911) is amended by striking subsection (b) and in-
17 serting the following:

18 “(b) A rule or order under subsection (a) shall be
19 considered to be a major rule subject to chapter 8 of title
20 5, United States Code.”.

21 (9) WATER RESOURCE EVALUATION.—Section
22 13 of the Federal Nonnuclear Energy Research and
23 Development Act of 1974 (42 U.S.C. 5912) is
24 amended by striking “Administrator” each place it
25 appears and inserting “Secretary”.

1 (10) AUTHORIZATION OF APPROPRIATIONS.—

2 Section 16 of the Federal Nonnuclear Energy Re-
3 search and Development Act of 1974 (42 U.S.C.
4 5915) is amended—

5 (A) by striking the section heading and in-
6 serting the following:

7 “AUTHORIZATION OF APPROPRIATIONS”;

8 (B) by striking “(a) There may be appro-
9 priated to the Administrator” and inserting
10 “‘There may be appropriated to the Secretary’”;
11 and

12 (C) by striking subsections (b) and (c).

13 (11) CENTRAL SOURCE OF NONNUCLEAR EN-
14 ERGY INFORMATION.—Section 17 of the Federal
15 Nonnuclear Energy Research and Development Act
16 of 1974 (42 U.S.C. 5916) is amended—

17 (A) by striking “Administrator” each place
18 it appears and inserting “Secretary”;

19 (B) in the first sentence, by striking “Ad-
20 ministrators”;

21 (C) in the second sentence, by striking
22 “he” and inserting “the Secretary”;

23 (D) in the third sentence—

24 (i) in paragraph (2) of the first pro-
25 viso, by striking “section 1905 or title 18”

1 and inserting “section 1905 of title 18”;

2 and

3 (ii) in subparagraph (B) of the second

4 proviso—

5 (I) by striking “the Federal En-
6 ergy Administration,”;

7 (II) by striking “the Federal
8 Power Commission,” and inserting
9 “the Federal Energy Regulatory Ad-
10 ministration”; and

11 (III) by striking “General Ac-
12 counting Office” and inserting “Gov-
13 ernment Accountability Office”; and

14 (E) in the last sentence, by inserting “or
15 ranking minority member” after “chairman”.

16 (12) ENERGY INFORMATION, LOAN GUARAN-
17 TEES, AND FINANCIAL SUPPORT.—Sections 18
18 through 20 of the Federal Nonnuclear Energy Re-
19 search and Development Act of 1974 (42 U.S.C.
20 5917 through 5920) are repealed.

21 (c) STEVENSON-WYDLER TECHNOLOGY INNOVATION
22 ACT OF 1980.—Section 20 of the Stevenson-Wydler Tech-
23 nology Innovation Act of 1980 (15 U.S.C. 3712) is
24 amended by striking “and the National Science Founda-

1 tion” and inserting “, the Secretary of Energy, and the
2 Director of the National Science Foundation”.

3 (d) DEPARTMENT OF ENERGY ORGANIZATION
4 ACT.—The table of contents for the Department of En-
5 ergy Organization Act (42 U.S.C. 7101 note) is amended
6 by striking “Section 209” and all that follows through the
7 end of the item relating to section 216 and inserting the
8 following:

“Sec. 209. Office of Science.

“Sec. 210. Leasing Liaison Committee.

“Sec. 211. Office of Minority Economic Impact.

“Sec. 213. Establishment of policy for National Nuclear Security Administra-
tion.

“Sec. 214. Establishment of security, counterintelligence, and intelligence poli-
cies.

“Sec. 215. Office of Counterintelligence.

“Sec. 216. Office of Intelligence.”.]