

109TH CONGRESS
1ST SESSION

H. R. 1533

To ensure jobs for our future with secure and reliable energy.

IN THE HOUSE OF REPRESENTATIVES

APRIL 8, 2005

Mr. TOM DAVIS of Virginia (for himself and Mr. WAXMAN) introduced the following bill; which was referred to the Committee on Energy and Commerce, and in addition to the Committee on Government Reform, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To ensure jobs for our future with secure and reliable energy.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Federal Energy Management Improvement Act of
6 2005”.

7 (a) TABLE OF CONTENTS.—The table of contents for
8 this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—ENERGY EFFICIENCY

- Sec. 102. Energy management requirements.
 Sec. 104. Procurement of energy efficient products.
 Sec. 105. Energy Savings Performance Contracts.

TITLE II—RENEWABLE ENERGY

- Sec. 203. Federal purchase requirement.

TITLE VI—NUCLEAR MATTERS

- Sec. 624. Elimination of pension offset.
 Sec. 632. Whistleblower protection.

TITLE VII—VEHICLES AND FUELS

- Sec. 701. Use of alternative fuels by dual-fueled vehicles.
 Sec. 704. Incremental cost allocation.
 Sec. 707. Report concerning compliance with alternative fueled vehicle purchasing requirements.

TITLE X—DEPARTMENT OF ENERGY MANAGEMENT

- Sec. 1001. Additional Assistant Secretary position.
 Sec. 1002. Other transactions authority.

TITLE XVI—STUDIES

- Sec. 1606. Telecommuting study.

1 TITLE I—ENERGY EFFICIENCY

2 SEC. 102. ENERGY MANAGEMENT REQUIREMENTS.

3 (a) ENERGY REDUCTION GOALS.—

4 (1) AMENDMENT.—Section 543(a)(1) of the
5 National Energy Conservation Policy Act (42 U.S.C.
6 8253(a)(1)) is amended by striking “its Federal
7 buildings so that” and all that follows through the
8 end and inserting “the Federal buildings of the
9 agency (including each industrial or laboratory facil-
10 ity) so that the energy consumption per gross square
11 foot of the Federal buildings of the agency in fiscal
12 years 2006 through 2015 is reduced, as compared
13 with the energy consumption per gross square foot

1 of the Federal buildings of the agency in fiscal year
 2 2003, by the percentage specified in the following
 3 table:

“Fiscal Year	Percentage reduction
2006	2
2007	4
2008	6
2009	8
2010	10
2011	12
2012	14
2013	16
2014	18
2015	20.”.

4 (2) REPORTING BASELINE.—The energy reduc-
 5 tion goals and baseline established in paragraph (1)
 6 of section 543(a) of the National Energy Conserva-
 7 tion Policy Act (42 U.S.C. 8253(a)(1)), as amended
 8 by this subsection, supersede all previous goals and
 9 baselines under such paragraph, and related report-
 10 ing requirements.

11 (b) REVIEW AND REVISION OF ENERGY PERFORM-
 12 ANCE REQUIREMENT.—Section 543(a) of the National
 13 Energy Conservation Policy Act (42 U.S.C. 8253(a)) is
 14 further amended by adding at the end the following:

15 “(3) Not later than December 31, 2014, the Sec-
 16 retary shall review the results of the implementation of
 17 the energy performance requirement established under
 18 paragraph (1) and submit to Congress recommendations
 19 concerning energy performance requirements for fiscal
 20 years 2016 through 2025.”.

1 (c) EXCLUSIONS.—Section 543(c)(1) of the National
2 Energy Conservation Policy Act (42 U.S.C. 8253(c)(1))
3 is amended by striking “An agency may exclude” and all
4 that follows through the end and inserting “(A) An agency
5 may exclude, from the energy performance requirement
6 for a fiscal year established under subsection (a) and the
7 energy management requirement established under sub-
8 section (b), any Federal building or collection of Federal
9 buildings, if the head of the agency finds that—

10 “(i) compliance with those requirements would
11 be impracticable;

12 “(ii) the agency has completed and submitted
13 all federally required energy management reports;

14 “(iii) the agency has achieved compliance with
15 the energy efficiency requirements of this Act, the
16 Energy Policy Act of 1992, Executive orders, and
17 other Federal law; and

18 “(iv) the agency has implemented all prac-
19 ticable, life cycle cost-effective projects with respect
20 to the Federal building or collection of Federal
21 buildings to be excluded.

22 “(B) A finding of impracticability under subpara-
23 graph (A)(i) shall be based on—

1 “(i) the energy intensiveness of activities car-
2 ried out in the Federal building or collection of Fed-
3 eral buildings; or

4 “(ii) the fact that the Federal building or col-
5 lection of Federal buildings is used in the perform-
6 ance of a national security function.”.

7 (d) REVIEW BY SECRETARY.—Section 543(e)(2) of
8 the National Energy Conservation Policy Act (42 U.S.C.
9 8253(e)(2)) is amended—

10 (1) by striking “impracticability standards” and
11 inserting “standards for exclusion”;

12 (2) by striking “a finding of impracticability”
13 and inserting “the exclusion”; and

14 (3) by striking “energy consumption require-
15 ments” and inserting “requirements of subsections
16 (a) and (b)(1)”.

17 (e) CRITERIA.—Section 543(e) of the National En-
18 ergy Conservation Policy Act (42 U.S.C. 8253(e)) is fur-
19 ther amended by adding at the end the following:

20 “(3) Not later than 180 days after the date of enact-
21 ment of this paragraph, the Secretary shall issue guide-
22 lines that establish criteria for exclusions under paragraph
23 (1).”.

24 (f) RETENTION OF ENERGY AND WATER SAVINGS.—
25 Section 546 of the National Energy Conservation Policy

1 Act (42 U.S.C. 8256) is amended by adding at the end
2 the following new subsection:

3 “(e) RETENTION OF ENERGY AND WATER SAV-
4 INGS.—An agency may retain any funds appropriated to
5 that agency for energy expenditures, water expenditures,
6 or wastewater treatment expenditures, at buildings subject
7 to the requirements of section 543(a) and (b), that are
8 not made because of energy savings or water savings. Ex-
9 cept as otherwise provided by law, such funds may be used
10 only for energy efficiency, water conservation, or uncon-
11 ventional and renewable energy resources projects.”.

12 (g) REPORTS.—Section 548(b) of the National En-
13 ergy Conservation Policy Act (42 U.S.C. 8258(b)) is
14 amended—

15 (1) in the subsection heading, by inserting
16 “THE PRESIDENT AND” before “CONGRESS”; and

17 (2) by inserting “President and” before “Con-
18 gress”.

19 (h) CONFORMING AMENDMENT.—Section 550(d) of
20 the National Energy Conservation Policy Act (42 U.S.C.
21 8258b(d)) is amended in the second sentence by striking
22 “the 20 percent reduction goal established under section
23 543(a) of the National Energy Conservation Policy Act
24 (42 U.S.C. 8253(a)).” and inserting “each of the energy
25 reduction goals established under section 543(a).”.

1 **SEC. 104. PROCUREMENT OF ENERGY EFFICIENT PROD-**
2 **UCTS.**

3 (a) REQUIREMENTS.—Part 3 of title V of the Na-
4 tional Energy Conservation Policy Act (42 U.S.C. 8251
5 et seq.), as amended by section 101, is amended by adding
6 at the end the following:

7 **“SEC. 553. FEDERAL PROCUREMENT OF ENERGY EFFI-**
8 **CIENT PRODUCTS.**

9 “(a) DEFINITIONS.—In this section:

10 “(1) ENERGY STAR PRODUCT.—The term ‘En-
11 ergy Star product’ means a product that is rated for
12 energy efficiency under an Energy Star program.

13 “(2) ENERGY STAR PROGRAM.—The term ‘En-
14 ergy Star program’ means the program established
15 by section 324A of the Energy Policy and Conserva-
16 tion Act.

17 “(3) EXECUTIVE AGENCY.—The term ‘executive
18 agency’ has the meaning given the term in section
19 4 of the Office of Federal Procurement Policy Act
20 (41 U.S.C. 403).

21 “(4) FEMP DESIGNATED PRODUCT.—The term
22 ‘FEMP designated product’ means a product that is
23 designated under the Federal Energy Management
24 Program of the Department of Energy as being
25 among the highest 25 percent of equivalent products
26 for energy efficiency.

1 “(b) PROCUREMENT OF ENERGY EFFICIENT PROD-
2 UCTS.—

3 “(1) REQUIREMENT.—To meet the require-
4 ments of an executive agency for an energy con-
5 suming product, the head of the executive agency
6 shall, except as provided in paragraph (2), procure—

7 “(A) an Energy Star product; or

8 “(B) a FEMP designated product.

9 “(2) EXCEPTIONS.—The head of an executive
10 agency is not required to procure an Energy Star
11 product or FEMP designated product under para-
12 graph (1) if the head of the executive agency finds
13 in writing that—

14 “(A) an Energy Star product or FEMP
15 designated product is not cost-effective over the
16 life of the product taking energy cost savings
17 into account; or

18 “(B) no Energy Star product or FEMP
19 designated product is reasonably available that
20 meets the functional requirements of the execu-
21 tive agency.

22 “(3) PROCUREMENT PLANNING.—The head of
23 an executive agency shall incorporate into the speci-
24 fications for all procurements involving energy con-
25 suming products and systems, including guide speci-

1 fications, project specifications, and construction,
2 renovation, and services contracts that include provi-
3 sion of energy consuming products and systems, and
4 into the factors for the evaluation of offers received
5 for the procurement, criteria for energy efficiency
6 that are consistent with the criteria used for rating
7 Energy Star products and for rating FEMP des-
8 ignated products.

9 “(c) LISTING OF ENERGY EFFICIENT PRODUCTS IN
10 FEDERAL CATALOGS.—Energy Star products and FEMP
11 designated products shall be clearly identified and promi-
12 nently displayed in any inventory or listing of products
13 by the General Services Administration or the Defense Lo-
14 gistics Agency. The General Services Administration or
15 the Defense Logistics Agency shall supply only Energy
16 Star products or FEMP designated products for all prod-
17 uct categories covered by the Energy Star program or the
18 Federal Energy Management Program, except in cases
19 where the agency ordering a product specifies in writing
20 that no Energy Star product or FEMP designated product
21 is available to meet the buyer’s functional requirements,
22 or that no Energy Star product or FEMP designated
23 product is cost-effective for the intended application over
24 the life of the product, taking energy cost savings into ac-
25 count.

1 “(d) SPECIFIC PRODUCTS.—(1) In the case of elec-
2 tric motors of 1 to 500 horsepower, agencies shall select
3 only premium efficient motors that meet a standard des-
4 ignated by the Secretary. The Secretary shall designate
5 such a standard not later than 120 days after the date
6 of the enactment of this section, after considering the rec-
7 ommendations of associated electric motor manufacturers
8 and energy efficiency groups.

9 “(2) All Federal agencies are encouraged to take ac-
10 tions to maximize the efficiency of air conditioning and
11 refrigeration equipment, including appropriate cleaning
12 and maintenance, including the use of any system treat-
13 ment or additive that will reduce the electricity consumed
14 by air conditioning and refrigeration equipment. Any such
15 treatment or additive must be—

16 “(A) determined by the Secretary to be effective
17 in increasing the efficiency of air conditioning and
18 refrigeration equipment without having an adverse
19 impact on air conditioning performance (including
20 cooling capacity) or equipment useful life;

21 “(B) determined by the Administrator of the
22 Environmental Protection Agency to be environ-
23 mentally safe; and

24 “(C) shown to increase seasonal energy effi-
25 ciency ratio (SEER) or energy efficiency ratio

1 (EER) when tested by the National Institute of
2 Standards and Technology according to Department
3 of Energy test procedures without causing any ad-
4 verse impact on the system, system components, the
5 refrigerant or lubricant, or other materials in the
6 system.

7 Results of testing described in subparagraph (C) shall be
8 published in the Federal Register for public review and
9 comment. For purposes of this section, a hardware device
10 or primary refrigerant shall not be considered an additive.

11 “(e) REGULATIONS.—Not later than 180 days after
12 the date of the enactment of this section, the Secretary
13 shall issue guidelines to carry out this section.”.

14 (b) CONFORMING AMENDMENT.—The table of con-
15 tents of the National Energy Conservation Policy Act is
16 further amended by inserting after the item relating to
17 section 552 the following new item:

“Sec. 553. Federal procurement of energy efficient products.”.

18 **SEC. 105. ENERGY SAVINGS PERFORMANCE CONTRACTS.**

19 (a) LIMITATIONS.—

20 (1) IN GENERAL.—Section 801(a) of the Na-
21 tional Energy Conservation Policy Act (42 U.S.C.
22 8287(a)) is amended by adding at the end the fol-
23 lowing subparagraph:

24 “(E) All Federal agencies combined may not, after
25 the date of enactment of the Energy Policy Act of 2005,

1 enter into more than a total of 100 contracts under this
2 title. Payments made by the Federal Government under
3 all contracts permitted by this subparagraph combined
4 shall not exceed a total of \$500,000,000. Each Federal
5 agency shall appoint a coordinator for Energy Savings
6 Performance Contracts with the responsibility to monitor
7 the number of such contracts for that Federal agency and
8 the investment value of each contract. The coordinators
9 for each Federal agency shall meet monthly to ensure that
10 the limits specified in this subparagraph on the number
11 of contracts and the payments made for the contracts are
12 not exceeded.”.

13 (2) DEFINITION.—Section 804(1) of the Na-
14 tional Energy Conservation Policy Act (42 U.S.C.
15 8287e(1)) is amended to read as follows:

16 “(1) The term ‘Federal agency’ means the De-
17 partment of Defense, the Department of Veterans
18 Affairs, and the Department of Energy. ”.

19 (3) VALIDITY OF CONTRACTS.—The amend-
20 ments made by this subsection shall not affect the
21 validity of contracts entered into under title VIII of
22 the National Energy Conservation Policy Act (42
23 U.S.C. 8287 et seq.) before the date of enactment
24 of this Act, or of contracts described in subsection
25 (h).

1 (b) PERMANENT EXTENSION.—Effective October 1,
2 2006, section 801(c) of the National Energy Conservation
3 Policy Act (42 U.S.C. 8287(c)) is repealed.

4 (c) PAYMENT OF COSTS.—Section 802 of the Na-
5 tional Energy Conservation Policy Act (42 U.S.C. 8287a)
6 is amended by inserting “, water, or wastewater treat-
7 ment” after “payment of energy”.

8 (d) ENERGY SAVINGS.—Section 804(2) of the Na-
9 tional Energy Conservation Policy Act (42 U.S.C.
10 8287c(2)) is amended to read as follows:

11 “(2) The term ‘energy savings’ means a reduc-
12 tion in the cost of energy, water, or wastewater
13 treatment, from a base cost established through a
14 methodology set forth in the contract, used in an ex-
15 isting federally owned building or buildings or other
16 federally owned facilities as a result of—

17 “(A) the lease or purchase of operating
18 equipment, improvements, altered operation and
19 maintenance, or technical services;

20 “(B) the increased efficient use of existing
21 energy sources by cogeneration or heat recov-
22 ery, excluding any cogeneration process for
23 other than a federally owned building or build-
24 ings or other federally owned facilities; or

1 “(C) the increased efficient use of existing
2 water sources in either interior or exterior ap-
3 plications.”.

4 (e) ENERGY SAVINGS CONTRACT.—Section 804(3) of
5 the National Energy Conservation Policy Act (42 U.S.C.
6 8287c(3)) is amended to read as follows:

7 “(3) The terms ‘energy savings contract’ and
8 ‘energy savings performance contract’ mean a con-
9 tract that provides for the performance of services
10 for the design, acquisition, installation, testing, and,
11 where appropriate, operation, maintenance, and re-
12 pair, of an identified energy or water conservation
13 measure or series of measures at 1 or more loca-
14 tions. Such contracts shall, with respect to an agen-
15 cy facility that is a public building (as such term is
16 defined in section 3301 of title 40, United States
17 Code), be in compliance with the prospectus require-
18 ments and procedures of section 3307 of title 40,
19 United States Code.”.

20 (f) ENERGY OR WATER CONSERVATION MEASURE.—
21 Section 804(4) of the National Energy Conservation Pol-
22 icy Act (42 U.S.C. 8287c(4)) is amended to read as fol-
23 lows:

24 “(4) The term ‘energy or water conservation
25 measure’ means—

1 “(A) an energy conservation measure, as
2 defined in section 551; or

3 “(B) a water conservation measure that
4 improves the efficiency of water use, is life-cycle
5 cost-effective, and involves water conservation,
6 water recycling or reuse, more efficient treat-
7 ment of wastewater or stormwater, improve-
8 ments in operation or maintenance efficiencies,
9 retrofit activities, or other related activities, not
10 at a Federal hydroelectric facility.”.

11 (g) REVIEW.—Not later than 180 days after the date
12 of the enactment of this Act, the Secretary of Energy shall
13 complete a review of the Energy Savings Performance
14 Contract program to identify statutory, regulatory, and
15 administrative obstacles that prevent Federal agencies
16 from fully utilizing the program. In addition, this review
17 shall identify all areas for increasing program flexibility
18 and effectiveness, including audit and measurement
19 verification requirements, accounting for energy use in de-
20 termining savings, contracting requirements, including the
21 identification of additional qualified contractors, and en-
22 ergy efficiency services covered. The Secretary shall report
23 these findings to Congress and shall implement identified
24 administrative and regulatory changes to increase pro-

1 gram flexibility and effectiveness to the extent that such
2 changes are consistent with statutory authority.

3 (h) **EXTENSION OF AUTHORITY.**—Any energy sav-
4 ings performance contract entered into under section 801
5 of the National Energy Conservation Policy Act (42
6 U.S.C. 8287) after October 1, 2006, and before the date
7 of enactment of this Act, shall be deemed to have been
8 entered into pursuant to such section 801 as amended by
9 subsection (a) of this section.

10 **TITLE II—RENEWABLE ENERGY**

11 **SEC. 203. FEDERAL PURCHASE REQUIREMENT.**

12 (a) **REQUIREMENT.**—The President, acting through
13 the Secretary of Energy, shall seek to ensure that, to the
14 extent economically feasible and technically practicable, of
15 the total amount of electric energy the Federal Govern-
16 ment consumes during any fiscal year, the following
17 amounts shall be renewable energy:

18 (1) Not less than 3 percent in fiscal years 2007
19 through 2009.

20 (2) Not less than 5 percent in fiscal years 2010
21 through 2012.

22 (3) Not less than 7.5 percent in fiscal year
23 2013 and each fiscal year thereafter.

24 (b) **DEFINITIONS.**—In this section:

1 (1) BIOMASS.—The term “biomass” means any
2 solid, nonhazardous, cellulosic material that is de-
3 rived from—

4 (A) any of the following forest-related re-
5 sources: mill residues, precommercial thinnings,
6 slash, and brush, or nonmerchantable material;

7 (B) solid wood waste materials, including
8 waste pallets, crates, dunnage, manufacturing
9 and construction wood wastes (other than pres-
10 sure-treated, chemically-treated, or painted
11 wood wastes), and landscape or right-of-way
12 tree trimmings, but not including municipal
13 solid waste (garbage), gas derived from the bio-
14 degradation of solid waste, or paper that is
15 commonly recycled;

16 (C) agriculture wastes, including orchard
17 tree crops, vineyard, grain, legumes, sugar, and
18 other crop by-products or residues, and live-
19 stock waste nutrients; or

20 (D) a plant that is grown exclusively as a
21 fuel for the production of electricity.

22 (2) RENEWABLE ENERGY.—The term “renew-
23 able energy” means electric energy generated from
24 solar, wind, biomass, landfill gas, geothermal, munic-
25 ipal solid waste, or new hydroelectric generation ca-

1 capacity achieved from increased efficiency or addi-
2 tions of new capacity at an existing hydroelectric
3 project.

4 (c) CALCULATION.—For purposes of determining
5 compliance with the requirement of this section, the
6 amount of renewable energy shall be doubled if—

7 (1) the renewable energy is produced and used
8 on-site at a Federal facility;

9 (2) the renewable energy is produced on Fed-
10 eral lands and used at a Federal facility; or

11 (3) the renewable energy is produced on Indian
12 land as defined in title XXVI of the Energy Policy
13 Act of 1992 (25 U.S.C. 3501 et. seq.) and used at
14 a Federal facility.

15 (d) REPORT.—Not later than April 15, 2007, and
16 every 2 years thereafter, the Secretary of Energy shall
17 provide a report to Congress on the progress of the Fed-
18 eral Government in meeting the goals established by this
19 section.

20 **TITLE VI—NUCLEAR MATTERS**

21 **SEC. 624. ELIMINATION OF PENSION OFFSET.**

22 Section 161 of the Atomic Energy Act of 1954 (42
23 U.S.C. 2201) is amended by adding at the end the fol-
24 lowing:

1 “y. Exempt from the application of sections 8344 and
2 8468 of title 5, United States Code, an annuitant who was
3 formerly an employee of the Commission who is hired by
4 the Commission as a consultant, if the Commission finds
5 that the annuitant has a skill that is critical to the per-
6 formance of the duties of the Commission.”.

7 **SEC. 632. WHISTLEBLOWER PROTECTION.**

8 (a) DEFINITION OF EMPLOYER.—Section 211(a)(2)
9 of the Energy Reorganization Act of 1974 (42 U.S.C.
10 5851(a)(2)) is amended—

11 (1) in subparagraph (C), by striking “and” at
12 the end;

13 (2) in subparagraph (D), by striking the period
14 at the end and inserting “; and” and

15 (3) by adding at the end the following:

16 “(E) a contractor or subcontractor of the
17 Commission.”.

18 (b) DE NOVO REVIEW.—Subsection (b) of such sec-
19 tion 211 is amended by adding at the end the following
20 new paragraph:

21 “(4) If the Secretary has not issued a final de-
22 cision within 540 days after the filing of a complaint
23 under paragraph (1), and there is no showing that
24 such delay is due to the bad faith of the person
25 seeking relief under this paragraph, such person

1 may bring an action at law or equity for de novo re-
2 view in the appropriate district court of the United
3 States, which shall have jurisdiction over such an ac-
4 tion without regard to the amount in controversy.”.

5 **TITLE VII—VEHICLES AND**
6 **FUELS**

7 **SEC. 701. USE OF ALTERNATIVE FUELS BY DUAL-FUELED**
8 **VEHICLES.**

9 Section 400AA(a)(3)(E) of the Energy Policy and
10 Conservation Act (42 U.S.C. 6374(a)(3)(E)) is amended
11 to read as follows:

12 “(E)(i) Dual fueled vehicles acquired pursuant to this
13 section shall be operated on alternative fuels unless the
14 Secretary determines that an agency qualifies for a waiver
15 of such requirement for vehicles operated by the agency
16 in a particular geographic area in which—

17 “(I) the alternative fuel otherwise required to
18 be used in the vehicle is not reasonably available to
19 retail purchasers of the fuel, as certified to the Sec-
20 retary by the head of the agency; or

21 “(II) the cost of the alternative fuel otherwise
22 required to be used in the vehicle is unreasonably
23 more expensive compared to gasoline, as certified to
24 the Secretary by the head of the agency.

1 “(ii) The Secretary shall monitor compliance with
2 this subparagraph by all such fleets and shall report annu-
3 ally to Congress on the extent to which the requirements
4 of this subparagraph are being achieved. The report shall
5 include information on annual reductions achieved from
6 the use of petroleum-based fuels and the problems, if any,
7 encountered in acquiring alternative fuels.”.

8 **SEC. 704. INCREMENTAL COST ALLOCATION.**

9 Section 303(c) of the Energy Policy Act of 1992 (42
10 U.S.C. 13212(c)) is amended by striking “may” and in-
11 serting “shall”.

12 **SEC. 707. REPORT CONCERNING COMPLIANCE WITH AL-**
13 **TERNATIVE FUELED VEHICLE PURCHASING**
14 **REQUIREMENTS.**

15 Section 310(b)(1) of the Energy Policy Act of 1992
16 (42 U.S.C. 13218(b)(1)) is amended by striking “1 year
17 after the date of enactment of this subsection” and insert-
18 ing “February 15, 2006”.

19 **TITLE X—DEPARTMENT OF**
20 **ENERGY MANAGEMENT**

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

22 (a) **ADDITIONAL ASSISTANT SECRETARY POSITION**
23 **TO ENABLE IMPROVED MANAGEMENT OF NUCLEAR EN-**
24 **ERGY ISSUES.—**

1 (1) IN GENERAL.—Section 203(a) of the De-
2 partment of Energy Organization Act (42 U.S.C.
3 7133(a)) is amended by striking “six Assistant Sec-
4 retaries” and inserting “7 Assistant Secretaries”.

5 (2) SENSE OF CONGRESS.—It is the sense of
6 Congress that the leadership for departmental mis-
7 sions in nuclear energy should be at the Assistant
8 Secretary level.

9 (b) TECHNICAL AND CONFORMING AMENDMENTS.—

10 (1) TITLE 5.—Section 5315 of title 5, United
11 States Code, is amended by striking “Assistant Sec-
12 retaries of Energy (6)” and inserting “Assistant
13 Secretaries of Energy (7)”.

14 (2) DEPARTMENT OF ENERGY ORGANIZATION
15 ACT.—The table of contents for the Department of
16 Energy Organization Act (42 U.S.C. 7101 note) is
17 amended—

18 (A) by striking “Section 209” and insert-
19 ing “Sec. 209”;

20 (B) by striking “213.” and inserting “Sec.
21 213.”;

22 (C) by striking “214.” and inserting “Sec.
23 214.”;

24 (D) by striking “215.” and inserting “Sec.
25 215.”; and

1 (E) by striking “216.” and inserting “Sec.
2 216.”.

3 **SEC. 1002. 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 law, the Secretary may enter into other
9 transactions on such terms as the Secretary may deem
10 appropriate in furtherance of research, development, or
11 demonstration functions vested in the Secretary. Such
12 other transactions shall not be subject to the provisions
13 of section 9 of the Federal Nonnuclear Energy Research
14 and Development Act of 1974 (42 U.S.C. 5908) or section
15 152 of the Atomic Energy Act of 1954 (42 U.S.C. 2182).

16 “(2)(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 Government
25 under a transaction authorized by paragraph (1) do

1 not exceed the total amount provided by other par-
2 ties 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 makes a written determina-
10 tion that the use of a standard contract, grant, or coopera-
11 tive agreement for the project is not feasible or appro-
12 priate.

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

17 “(i) a proposal, proposal abstract, and sup-
18 porting documents submitted to the Department in
19 a competitive or noncompetitive process having the
20 potential for resulting in an award under paragraph
21 (1) to the party submitting the information; 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 “(4) Not later than 90 days after the date of enact-
9 ment of this subsection, the Secretary shall prescribe
10 guidelines for using other transactions authorized by para-
11 graph (1). Such guidelines shall be published in the Fed-
12 eral Register for public comment under rulemaking proce-
13 dures of the Department.

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

19 “(6)(A) Not later than September 31, 2006, the
20 Comptroller General of the United States shall report to
21 Congress on the Department’s use of the authorities
22 granted under this section, including the ability to attract
23 nontraditional government contractors and whether addi-
24 tional safeguards are needed with respect to the use of
25 such authorities.

1 “(B) In this section, the term ‘nontraditional Govern-
2 ment contractor’ has the same meaning as the term ‘non-
3 traditional defense contractor’ as defined in section 845(e)
4 of the National Defense Authorization Act for Fiscal Year
5 1994 (Public Law 103–160; 10 U.S.C. 2371 note).”.

6 **TITLE XVI—STUDIES**

7 **SEC. 1606. TELECOMMUTING STUDY.**

8 (a) **STUDY REQUIRED.**—The Secretary, in consulta-
9 tion with the Commission, the Director of the Office of
10 Personnel Management, the Administrator of General
11 Services, and the Administrator of NTIA, shall conduct
12 a study of the energy conservation implications of the
13 widespread adoption of telecommuting by Federal employ-
14 ees in the United States.

15 (b) **REQUIRED SUBJECTS OF STUDY.**—The study re-
16 quired by subsection (a) shall analyze the following sub-
17 jects in relation to the energy saving potential of telecom-
18 muting by Federal employees:

19 (1) Reductions of energy use and energy costs
20 in commuting and regular office heating, cooling,
21 and other operations.

22 (2) Other energy reductions accomplished by
23 telecommuting.

1 (3) Existing regulatory barriers that hamper
2 telecommuting, including barriers to broadband tele-
3 communications services deployment.

4 (4) Collateral benefits to the environment, fam-
5 ily life, and other values.

6 (c) REPORT REQUIRED.—The Secretary shall submit
7 to the President and Congress a report on the study re-
8 quired by this section not later than 6 months after the
9 date of enactment of this Act. Such report shall include
10 a description of the results of the analysis of each of the
11 subject described in subsection (b).

12 (d) DEFINITIONS.—As used in this section:

13 (1) SECRETARY.—The term “Secretary” means
14 the Secretary of Energy.

15 (2) COMMISSION.—The term “Commission”
16 means the Federal Communications Commission.

17 (3) NTLA.—The term “NTLA” means the Na-
18 tional Telecommunications and Information Admin-
19 istration of the Department of Commerce.

20 (4) TELECOMMUTING.—The term “telecom-
21 muting” means the performance of work functions
22 using communications technologies, thereby elimi-
23 nating or substantially reducing the need to com-
24 mute to and from traditional worksites.

1 (5) FEDERAL EMPLOYEE.—The term “Federal
2 employee” has the meaning provided the term “em-
3 ployee” by section 2105 of title 5, United States
4 Code.

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