106TH CONGRESS
2d Session } HOUSE OF REPRESENTATIVES { REPT. 106–492
Part 1

DEPARTMENT OF ENERGY COMMERCIAL APPLICATION OF ENERGY TECHNOLOGY AUTHORIZATION ACT OF 1999

FEBRUARY 3, 2000.—Ordered to be printed

Mr. SENSENBRENNER, from the Committee on Science, submitted the following

R E P O R T

[To accompany H.R. 1656]

[Including cost estimate of the Congressional Budget Office]

The Committee on Science, to whom was referred the bill (H.R. 1656) to authorize appropriations for fiscal years 2000 and 2001 for the commercial application of energy technology and related civilian energy and scientific programs, projects, and activities of the Department of Energy, and for other purposes, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

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79–006

I. AMENDMENT

The amendment is as follows:

Strike out all after the enacting clause and insert in lieu thereof the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Department of Energy Commercial Application of Energy Technology Authorization Act of 1999".

SEC. 2. DEFINITIONS.

For the purposes of this Act—

(1) the term "Department" means the Department of Energy; and

(2) the term "Secretary" means the Secretary of Energy.

SEC. 3. AUTHORIZATION OF APPROPRIATIONS.

(a) ENERGY SUPPLY.—There are authorized to be appropriated to the Secretary for Energy Supply commercial application of energy technology and related civilian energy and scientific research, development, and demonstration operation and maintenance and construction programs, projects, and activities for which specific sums are not authorized under other authority of law $309,662,000 for fiscal year 2000 and $306,857,000 for fiscal year 2001, to remain available through the end of fiscal year 2002, of which—

(1) $136,000,000 for fiscal year 2000 and $131,840,000 for fiscal year 2001 shall be for Nuclear Energy, including—

(A) $85,000,000 for fiscal year 2000 and $87,550,000 for fiscal year 2001 for Termination Costs;

(B) $30,000,000 for fiscal year 2000 and $30,900,000 for fiscal year 2001 for the Fast Flux Test Facility;

(C) $13,000,000 for fiscal year 2000 and $13,390,000 for fiscal year 2001 for Isotope Support; and

(D) $8,000,000 for fiscal year 2000 for completion of Project 98–E–201, Isotope Production Facility, Los Alamos National Laboratory;

(2) $50,750,000 for fiscal year 2000 and $51,703,000 for fiscal year 2001 shall be for Environment, Safety, and Health;

(3) $9,100,000 for fiscal year 2000 and $9,148,000 for fiscal year 2001 shall be for Technical Information Management;

(4) $102,000,000 for fiscal year 2000 and $102,000,000 for fiscal year 2001 shall be for Field Operations; and

(5) $11,812,000 for fiscal year 2000 and $12,166,000 for fiscal year 2001 shall be for Oak Ridge Landlord.

(b) NON-DEFENSE ENVIRONMENTAL MANAGEMENT.—There are authorized to be appropriated to the Secretary for Non-Defense Environmental Management commercial application of energy technology and related civilian energy and scientific research, development, and demonstration operation and maintenance programs, projects, and activities for which specific sums are not authorized under other authority of law $330,934,000 for fiscal year 2000 and $340,862,000 for fiscal year 2001, to remain available through the end of fiscal year 2002, of which—

(1) $211,146,000 for fiscal year 2000 and $217,480,000 for fiscal year 2001 shall be for Site Closure;

(2) $100,866,000 for fiscal year 2000 and $103,892,000 for fiscal year 2001 shall be for the Site/Project Completion; and

(3) $18,922,000 for fiscal year 2000 and $19,490,000 for fiscal year 2001 shall be for Post 2006 Completion.

(c) FOSSIL ENERGY RESEARCH AND DEVELOPMENT.—There are authorized to be appropriated to the Secretary for Fossil Energy Research and Development Environmental Restoration commercial application of energy technology and related civilian energy and scientific research, development, and demonstration operation and maintenance programs, projects, and activities for which specific sums are not authorized under other authority of law $10,000,000 for fiscal year 2000 and $10,300,000 for fiscal year 2001, to remain available through the end of fiscal year 2002.

(d) ENERGY CONSERVATION RESEARCH AND DEVELOPMENT.—There are authorized to be appropriated to the Secretary for Energy Conservation Research and Development commercial application of energy technology and related civilian energy and scientific research, development, and demonstration operation and maintenance programs, projects, and activities for which specific sums are not authorized under other authority of law $52,163,000 for fiscal year 2000 and $53,727,890 for fiscal year 2001, to remain available through the end of fiscal year 2002, of which—

(1) $10,700,000 for fiscal year 2000 and $11,021,000 for fiscal year 2001 shall be for Clean Cities;

(2) $12,802,000 for fiscal year 2000 and $13,186,060 for fiscal year 2001 shall be for Building Standards and Guidelines;

(3) $13,343,000 for fiscal year 2000 and $13,743,290 for fiscal year 2001 shall be for Lighting and Appliance Standards; and

(4) $15,318,000 for fiscal year 2000 and $15,777,540 for fiscal year 2001 for Management and Planning for the Building Technology, State and Community Sector (nongrants).

SEC. 4. NOTICE.

(a) REPROGRAMMING.—The Secretary may use for any authorized civilian energy or scientific research, development, and demonstration and commercial application of energy technology programs, projects, and activities of the Department—

(1) up to the lesser of $250,000 or 5 percent of the total funding for a fiscal year of another such program, project, or activity of the Department; or

(2) after the expiration of 60 days after transmitting to the Committee on Science and the Committee on Appropriations of the House of Representatives, and to the Committee on Energy and Natural Resources and the Committee on Appropriations of the Senate, a report described in subsection (b), up to 25 percent of the total funding for a fiscal year of another such program, project, or activity of the Department.

(b) REPORT.—(1) The report referred to in subsection (a)(2) is a report containing a full and complete statement of the action proposed to be taken and the facts and circumstances relied upon in support of such proposed action.

(2) In the computation of the 60-day period under subsection (a)(2), there shall be excluded any day on which either House of Congress is not in session because of an adjournment of more than 3 days to a day certain.

(c) LIMITATIONS.—In no event may funds be used pursuant to subsection (a) for a civilian energy or scientific research, development, and demonstration or commercial application of energy technology program, project, or activity for which funding has been requested to the Congress but which has not been funded by the Congress.

(d) NOTICE OF REORGANIZATION.—The Secretary shall provide notice to the Committee on Science and the Committee on Appropriations of the House of Representatives, and to the Committee on Energy and Natural Resources and the Committee on Appropriations of the Senate, not later than 15 days before any major reorganization of any civilian energy or scientific research, development, and demonstration or commercial application of energy technology program, project, or activity of the Department.

(e) COPY OF REPORTS.—The Secretary shall provide copies to the Committee on Science and the Committee on Appropriations of the House of Representatives, and to the Committee on Energy and Natural Resources and the Committee on Appropriations of the Senate, of any report relating to the civilian energy or scientific research, development, and demonstration or commercial application of energy technology activities of the Department prepared at the direction of any committee of Congress.

SEC. 5. LIMITATION ON DEMONSTRATIONS.

The Department shall provide funding for civilian energy or scientific or commercial application of energy technology demonstration programs, projects, and activities only for technologies or processes that can be reasonably expected to yield new, measurable benefits to the cost, efficiency, or performance of the technology or process.

SEC. 6. LIMITS ON GENERAL PLANT PROJECTS.

If, at any time during the construction of a civilian energy or scientific research, development, and demonstration or commercial application of energy technology project of the Department for which no specific funding level is provided by law, the estimated cost (including any revision thereof) of the project exceeds $2,000,000, the Secretary may not continue such construction unless the Secretary has furnished a complete report to the Committee on Science and the Committee on Appropriations of the House of Representatives, and to the Committee on Energy and Natural Resources and the Committee on Appropriations of the Senate, explaining the project and the reasons for the estimate or revision.

SEC. 7. LIMITS ON CONSTRUCTION PROJECTS.

(a) LIMITATION.—Except as provided in subsection (b), construction on a civilian energy or scientific research, development, and demonstration or commercial application of energy technology project of the Department for which funding has been

specifically provided by law may not be started, and additional obligations may not be incurred in connection with the project above the authorized funding amount, whenever the current estimated cost of the construction project exceeds by more than 10 percent the higher of—

(1) the amount authorized for the project, if the entire project has been funded by the Congress; or

(2) the amount of the total estimated cost for the project as shown in the most recent budget justification data submitted to Congress.

(b) NOTICE.—An action described in subsection (a) may be taken if—

(1) the Secretary has submitted to the Committee on Science and the Committee on Appropriations of the House of Representatives, and to the Committee on Energy and Natural Resources and the Committee on Appropriations of the Senate, a report on the proposed actions and the circumstances making such actions necessary; and

(2) a period of 30 days has elapsed after the date on which the report is received by the committees.

(c) EXCLUSION.—In the computation of the 30-day period described in subsection (b)(2), there shall be excluded any day on which either House of Congress is not in session because of an adjournment of more than 3 days to a day certain.

(d) EXCEPTION.—Subsections (a) and (b) shall not apply to any construction project which has a current estimated cost of less than $2,000,000.

SEC. 8. AUTHORITY FOR CONCEPTUAL AND CONSTRUCTION DESIGN.

(a) REQUIREMENT FOR CONCEPTUAL DESIGN.—(1) Subject to paragraph (2) and except as provided in paragraph (3), before submitting to Congress a request for funds for a construction project that is in support of a civilian energy or scientific research, development, and demonstration or commercial application of energy technology program, project, or activity of the Department, the Secretary shall complete a conceptual design for that project.

(2) If the estimated cost of completing a conceptual design for a civilian energy or scientific research, development, and demonstration or commercial application of energy technology construction project exceeds $750,000, the Secretary shall submit to Congress a request for funds for the conceptual design before submitting a request for funds for the construction project.

(3) The requirement in paragraph (1) does not apply to a request for funds for a construction project, the total estimated cost of which is less than $2,000,000.

(b) AUTHORITY FOR CONSTRUCTION DESIGN.—(1) The Secretary may carry out construction design (including architectural and engineering services) in connection with any proposed construction project that is in support of a civilian energy or scientific research, development, and demonstration or commercial application of energy technology program of the Department if the total estimated cost for such design does not exceed $250,000.

(2) If the total estimated cost for construction design in connection with any construction project described in paragraph (1) exceeds $250,000, funds for such design must be specifically authorized by law.

SEC. 9. LIMITS ON USE OF FUNDS.

(a) CLEAN COAL TECHNOLOGY RESERVE.—No funds in the Clean Coal Technology Reserve may be used to initiate or carry out a clean coal technology energy demonstration project based outside the United States.

(b) TRAVEL.—Not more than 1 percent of the funds authorized by this Act may be used either directly or indirectly to fund travel costs of the Department or travel costs for persons awarded contracts or subcontracts by the Department. As part of the Department's annual budget request submission to the Congress, the Secretary shall submit a report to the Committee on Science and the Committee on Appropriations of the House of Representatives, and to the Committee on Energy and Natural Resources and the Committee on Appropriations of the Senate, that identifies—

(1) the estimated amount of travel costs by the Department and for persons awarded contracts or subcontracts by the Department for the fiscal year of such budget submission, as well as for the 2 previous fiscal years;

(2) the major purposes for such travel; and

(3) the sources of funds for such travel.

(c) TRADE ASSOCIATIONS.—No funds authorized by this Act may be used either directly or indirectly to fund a grant, contract, subcontract, or any other form of financial assistance awarded by the Department to a trade association on a noncompetitive basis. As part of the Department's annual budget request submission to the Congress, the Secretary shall submit a report to the Committee on Science and the Committee on Appropriations of the House of Representatives, and to the Com-

mittee on Energy and Natural Resources and the Committee on Appropriations of the Senate, that identifies—

(1) the estimated amount of funds provided by the Department to trade associations, by trade association, for the fiscal year of such budget submission, as well as for the 2 previous fiscal years;

(2) the services either provided or to be provided by each such trade association; and

(3) the sources of funds for services provided by each such trade association.

SEC. 10. MANAGEMENT AND OPERATING CONTRACTS.

(a) COMPETITIVE PROCEDURE REQUIREMENT.—None of the funds authorized to be appropriated by this Act or any prior Act may be used to award a management and operating contract for a federally owned or operated nonmilitary energy laboratory of the Department unless such contract is awarded using competitive procedures or the Secretary grants, on a case-by-case basis, a waiver to allow for such a deviation. The Secretary may not delegate the authority to grant such a waiver.

(b) CONGRESSIONAL NOTICE.—At least 60 days before a contract award, amendment, or modification for which the Secretary intends to grant such a waiver, the Secretary shall submit to the Committee on Science and the Committee on Appropriations of the House of Representatives, and to the Committee on Energy and Natural Resources and the Committee on Appropriations of the Senate, a report notifying the committees of the waiver and setting forth the reasons for the waiver.

SEC. 11. FEDERAL ACQUISITION REGULATION.

(a) REQUIREMENT.—None of the funds authorized to be appropriated by this Act or any prior Act for any commercial application of energy technology or civilian energy or scientific research, development, and demonstration or commercial application of energy technology programs, projects, and activities may be used to award, amend, or modify a contract of the Department in a manner that deviates from the Federal Acquisition Regulation, unless the Secretary grants, on a case-by-case basis, a waiver to allow for such a deviation. The Secretary may not delegate the authority to grant such a waiver.

(b) CONGRESSIONAL NOTICE.—At least 60 days before a contract award, amendment, or modification for which the Secretary intends to grant such a waiver, the Secretary shall submit to the Committee on Science and the Committee on Appropriations of the House of Representatives, and to the Committee on Energy and Natural Resources and the Committee on Appropriations of the Senate, a report notifying the committees of the waiver and setting forth the reasons for the waiver.

SEC. 12. REQUESTS FOR PROPOSALS.

None of the funds authorized to be appropriated by this Act or any prior Act may be used by the Department to prepare or initiate Requests for Proposals (RFPs) for a civilian energy or scientific research, development, and demonstration or commercial application of energy technology program, project, or activity if the program, project, or activity has not been specifically authorized by Congress.

SEC. 13. PRODUCTION OR PROVISION OF ARTICLES OR SERVICES.

(a) RESTRICTION.—Except as provided in subsection (b), none of the funds authorized to be appropriated by this Act or any prior Act may be used by any civilian energy or scientific research, development, and demonstration or commercial application of energy technology program, project, or activity of the Department to produce or provide articles or services for the purpose of selling the articles or services to a person outside the Federal Government, unless the Secretary determines that comparable articles or services are not available from a commercial source in the United States.

(b) EXCEPTION.—Subsection (a) does not apply to the transmission and sale of electricity by any Federal power marketing administration.

SEC. 14. ELIGIBILITY FOR AWARDS.

(a) IN GENERAL.—The Secretary shall exclude from consideration for grant agreements for civilian energy or scientific research, development, and demonstration or commercial application of energy technology activities made by the Department after fiscal year 1999 any person who received funds, other than those described in subsection (b), appropriated for a fiscal year after fiscal year 1999, under a grant agreement from any Federal funding source for a program, project, or activity that was not subjected to a competitive, merit-based award process, except as specifically authorized by this Act. Any exclusion from consideration pursuant to this section shall be effective for a period of 5 years after the person receives such Federal funds.

(b) EXCEPTION.—Subsection (a) shall not apply to the receipt of Federal funds by a person due to the membership of that person in a class specified by law for which assistance is awarded to members of the class according to a formula provided by law or under circumstances permitting other than full and open competition under the Federal Acquisition Regulation.

(c) DEFINITION.—For purposes of this section, the term "grant agreement" means a legal instrument whose principal purpose is to transfer a thing of value to the recipient to carry out a public purpose of support or stimulation authorized by a law of the United States, and does not include the acquisition (by purchase, lease, or barter) of property or services for the direct benefit or use of the United States Government. Such term does not include a cooperative agreement (as such term is used in section 6305 of title 31, United States Code) or a cooperative research and development agreement (as such term is defined in section 12(d)(1) of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3710a(d)(1))).

SEC. 15. EXTERNAL REGULATION.

(a) AUTHORITY.—

(1) ELIMINATION OF DEPARTMENT OF ENERGY AUTHORITY.—Except as provided in paragraph (2), effective January 1, 2000, the Department shall have no regulatory or enforcement authority, through rules, regulations, orders, and standards, or reporting requirements, with respect to Federal, State, and local environmental, safety, and health requirements at any federally owned or operated nonmilitary energy laboratory.

(2) EXCEPTION.—Notwithstanding paragraph (1), the Department shall retain regulatory or enforcement authority described in paragraph (1) at any federally owned or operated nonmilitary energy laboratory to the extent that no other Federal, State, or local governmental agency has such regulatory or enforcement authority.

(b) NUCLEAR REGULATORY COMMISSION AUTHORITY.—

(1) ENFORCEMENT RESPONSIBILITIES.—Effective January 1, 2000, the Nuclear Regulatory Commission shall assume the regulatory and enforcement responsibilities of the Department under the Atomic Energy Act of 1954 with regard to federally owned or operated nonmilitary energy laboratories, including such responsibilities with respect to accelerator-produced radioactive material and ionizing radiation generating machines.

(2) LICENSED ENTITY.—For the purposes of carrying out at federally owned or operated nonmilitary energy laboratories regulatory and enforcement responsibilities described in paragraph (1), the Nuclear Regulatory Commission may regulate and license or provide certification for the Department, the Department's contractor, or both.

(3) DECOMMISSIONING.—A contractor operating a federally owned nonmilitary energy laboratory shall not be responsible for the costs of decommissioning that facility. No enforcement action may be taken against such contractor for any violation of Nuclear Regulatory Commission decommissioning requirements, if such violation is the result of a failure of the Department to authorize or fund decommissioning activities. The Nuclear Regulatory Commission and the Department shall, not later than July 1, 2000, enter into a memorandum of understanding establishing decommissioning procedures and requirements for federally owned or operated nonmilitary energy laboratories.

(c) OCCUPATIONAL SAFETY AND HEALTH.—

(1) OSHA JURISDICTION.—Notwithstanding any other provision of law, effective January 1, 2000, the Occupational Safety and Health Administration shall assume the regulatory and enforcement responsibilities of the Department relating to matters covered by the Occupational Safety and Health Act of 1970 with regard to all federally owned or operated nonmilitary energy laboratories. The Department's contractor or contractors operating those laboratories shall be considered employers for purposes of the Occupational Safety and Health Act of 1970.

(2) APPLICABILITY.—Section 4(b)(1) of the Occupational Safety and Health Act of 1970 (29 U.S.C. 653(b)(1)) does not apply with respect to the Department's regulation, or the Nuclear Regulatory Commission's regulation, of federally owned or operated nonmilitary energy laboratories.

(3) RADIATION REGULATIONS.—With respect to federally owned or operated nonmilitary energy laboratories, the Secretary of Labor may enforce the regulations contained in part 20 of title 10 of the Code of Federal Regulations, relating to Protection from Radiation, to the same extent as regulations issued under section 6(b) of the Occupational Safety and Health Act of 1970 (29 U.S.C. 655(b)).

(4) MEMORANDUM OF UNDERSTANDING.—The Nuclear Regulatory Commission and the Occupational Safety and Health Administration shall, within 90 days after the date of the enactment of this Act, enter into a memorandum of understanding to govern the exercise of their respective authorities over occupational safety and health hazards at federally owned or operated nonmilitary energy laboratories.

(d) CIVIL PENALTIES.—The Department's contractor operating a federally owned or operated nonmilitary energy laboratory shall not be liable for civil penalties under the Atomic Energy Act of 1954 or the Occupational Safety and Health Act of 1970 for any actions taken before October 1, 2000, pursuant to the transfer of regulatory and enforcement responsibilities required by this section.

(e) INDEMNIFICATION.—The Secretary shall continue to indemnify federally owned or operated nonmilitary energy laboratories in accordance with the provisions of section 170d. of the Atomic Energy Act of 1954.

(f) DEPARTMENT OF ENERGY REPORTING REQUIREMENT.—By October 31, 1999, the Secretary shall transmit to the Committee on Science and the Committee on Appropriations of the House of Representatives, and the Committee on Energy and Natural Resources and the Committee on Appropriations of the Senate, a plan for the termination of the Department's regulatory and enforcement responsibilities for federally owned or operated nonmilitary energy laboratories required by this section. The report shall include—

(1) a detailed transition plan, drafted in coordination with the Nuclear Regulatory Commission and the Occupational Safety and Health Administration, giving the schedule for termination of self-regulation authority as outlined in subsection (a), including the activities to be coordinated with the Nuclear Regulatory Commission and the Occupational Safety and Health Administration;

(2) a description of any issues remaining to be resolved with the Nuclear Regulatory Commission, the Occupational Safety and Health Administration, or other external regulators, and a timetable for resolving such issues before January 1, 2000;

(3) an estimate of—

(A) the annual cost of administering and implementing self-regulation of environmental, safety, and health activities at federally owned or operated nonmilitary energy laboratories;

(B) the number of Federal and contractor employees administering and implementing such self-regulation;

(C) the cost of external regulation based on the pilot projects of simulated Nuclear Regulatory Commission regulation which have already been conducted; and

(D) the extent and schedule by which the Department and laboratory staffs will be reduced as a result of implementation of this section; and

(4) a description of regulatory or enforcement authorities the Department determines it will be required to retain pursuant to subsection (a)(2).

SEC. 16. INTERNET AVAILABILITY OF INFORMATION.

The Secretary shall make available through the Internet home page of the Department the abstracts relating to all research grants and awards made with funds authorized by this Act. Nothing in this section shall be construed to require or permit the release of any information prohibited by law or regulation from being released to the public.

SEC. 17. MORATORIUM ON FOREIGN VISITORS PROGRAM.

(a) MORATORIUM.—Until the appropriate conditions are met under subsection (c), the Secretary may not admit any individual who is a citizen of a nation that is named on the current Department of Energy List of Sensitive Countries to—

(1) any classified facility of a laboratory owned by the Department; or

(2) any facility of a laboratory owned by the Department for the purposes of conducting activities related to any of the sensitive subjects listed in part 1 of Appendix 4 of the February 1997 document entitled "Guidelines on Export Control and Nonproliferation", issued by the Nuclear Transfer and Supplier Policy Division of the Office of Arms Control and Nonproliferation of the Office of Nonproliferation and National Security of the Department.

(b) WAIVER AUTHORITY.—(1) The Secretary may waive the prohibition in subsection (a) on a case-by-case basis with respect to specific individuals whose admission to a laboratory owned by the Department is determined by the Secretary to be necessary for the national security of the United States.

(2) Not later than 30 days after granting a waiver under paragraph (1), the Secretary shall transmit to the committees described in subsection (e) a report in writing regarding the waiver. The report shall identify each individual for whom such

a waiver is granted and, with respect to each such individual, provide a detailed justification for the waiver and the Secretary's certification that the admission of that individual to a laboratory owned by the Department is necessary for the national security of the United States.

(3) The authority of the Secretary under paragraph (1) may not be delegated.

(c) CONDITIONS FOR LIFTING MORATORIUM.—The moratorium on a laboratory owned by the Department shall be lifted when the Secretary, in consultation with and with the concurrence of the Director of the Federal Bureau of Investigation, transmits to the Congress a report certifying that—

(1) all of the applicable counterintelligence and safeguards and security measures contained in Presidential Decision Directive 61 have been fully implemented at the laboratory, and that adequate oversight and resources exist to ensure that they are properly followed;

(2) all of the additional applicable counterintelligence and safeguards and security measures announced by the Secretary on March 17, 1999, and March 31, 1999, have been fully implemented at the laboratory, and that adequate oversight and resources exist to ensure that they are appropriately followed; and

(3) all of the guidelines in February 1997 document entitled "Guidelines on Export Control and Nonproliferation", issued by the Nuclear Transfer and Supplier Policy Division of the Office of Arms Control and Nonproliferation of the Office of Nonproliferation and National Security of the Department are being followed with respect to all activities at the laboratory.

(d) REPORT TO CONGRESS.—(1) The Director of the Federal Bureau of Investigation and the Secretary jointly shall transmit to the committees described in subsection (e) an annual report, the first of which shall be transmitted not later than 90 days after the date of the enactment of this Act, on counterintelligence and safeguards and security activities at the laboratories owned by the Department, including facilities and areas at those laboratories at which unclassified work is carried out.

(2) The report required by paragraph (1) shall include—

(A) a description of the status of counterintelligence and safeguards and security at each of the laboratories owned by the Department;

(B) a description of the status of the conditions for lifting the moratorium under subsection (c); and

(C) a net assessment of the foreign visitors program at the laboratories owned by the Department, prepared by a panel of individuals with expertise in intelligence, counterintelligence, and nuclear weapons design matters.

(e) COMMITTEES.—The Committees referred to in this section are the Committee on Armed Services, the Committee on Appropriations, the Committee on Commerce, Science, and Transportation, the Committee on Energy and National Resources, and the Select Committee on Intelligence of the Senate, and the Committee on Armed Services, the Committee on Appropriations, the Committee on Commerce, the Committee on Science, and the Permanent Select Committee on Intelligence of the House of Representatives.

SEC. 18. TECHNOLOGY TRANSFER COORDINATION.

Within 90 days after the date of the enactment of this Act, the Secretary shall ensure, for the laboratories owned by the Department carrying out programs under this Act—

(1) consistency of technology transfer policies and procedures with respect to patenting, licensing, and commercialization;

(2) the availability to aggrieved private sector entities on request of binding alternative dispute resolution, nonbinding alternative dispute resolution, mediation, negotiation between authorized representatives of the disputing parties, or resolution by the Department's site contracting officer to resolve disputes regarding all technology transfer and intellectual property matters, with costs and damages to be provided for by the contractor to the extent that any such resolution attributes fault to the contractor;

(3) annual reports to the Secretary, as part of the annual performance evaluation, on technology transfer and intellectual property successes, current technology transfer and intellectual property disputes involving the laboratory, and progress toward resolving those disputes; and

(4) training to ensure that laboratory personnel responsible for patenting, licensing, and commercialization activities are knowledgeable of the appropriate legal, procedural, and ethical issues necessary to carry out those activities with the highest possible professional and ethical standards.

SEC. 19. DEPARTMENT OF ENERGY REGULATIONS RELATING TO THE SAFEGUARDING AND SECURITY OF RESTRICTED DATA.

(a) IN GENERAL.—Chapter 18 of title I of the Atomic Energy Act of 1954 (42 U.S.C. 2271 et seq.) is amended by inserting after section 234A the following new section:

"SEC. 234B. CIVIL MONETARY PENALTIES FOR VIOLATIONS OF DEPARTMENT OF ENERGY REGULATIONS REGARDING SECURITY OF CLASSIFIED OR SENSITIVE INFORMATION OR DATA.—

"a. Any person who has entered into a contract or agreement with the Department of Energy, or a subcontract or subagreement thereto, and who violates (or whose employee violates) any applicable rule, regulation, or order prescribed or otherwise issued by the Secretary pursuant to this Act relating to the safeguarding or security of Restricted Data or other classified or sensitive information shall be subject to a civil penalty of not to exceed $100,000 for each such violation.

"b. The Secretary shall include in each contract with a contractor of the Department provisions which provide an appropriate reduction in the fees or amounts paid to the contractor under the contract in the event of a violation by the contractor or contractor employee of any rule, regulation, or order relating to the safeguarding or security of Restricted Data or other classified or sensitive information. The provisions shall specify various degrees of violations and the amount of the reduction attributable to each degree of violation.

"c. The powers and limitations applicable to the assessment of civil penalties under section 234A, except for subsection d. of that section, shall apply to the assessment of civil penalties under this section.".

(b) CLARIFYING AMENDMENT.—The section heading of section 234A of such Act (42 U.S.C. 2282a) is amended by inserting "SAFETY" before "REGULATIONS".

(c) CLERICAL AMENDMENT.—The table of sections for that Act is amended by inserting after the item relating to section 234 the following new items:

"Sec. 234A. Civil Monetary Penalties for Violations of Department of Energy Safety Regulations.
"Sec. 234B. Civil Monetary Penalties for Violations of Department of Energy Regulations Regarding Security of Classified or Sensitive Information or Data.".

SEC. 20. WHISTLEBLOWER PROTECTION.

(a) PROGRAM.—The Secretary shall establish a program to ensure that an employee of the Department, or a contractor employee, may not be discharged, demoted, or otherwise discriminated against as a reprisal for disclosing to a person or entity referred to in subsection (b) information which the employee or contractor employee reasonably believes to provide direct and specific evidence of a violation described in subsection (c).

(b) COVERED PERSONS AND ENTITIES.—A person or entity referred to in this subsection is the following:

(1) A Member of Congress.

(2) An employee of Congress who has an appropriate security clearance for access to the information.

(3) The Inspector General of the Department.

(4) The Federal Bureau of Investigation.

(5) Any other element of the Federal Government designated by the Secretary as authorized to receive information of the type disclosed.

(c) COVERED VIOLATIONS.—A violation referred to in subsection (a) is—

(1) a violation of law or Federal regulation;

(2) gross mismanagement, a gross waste of funds, or abuse of authority; or

(3) a false statement to Congress on an issue of material fact.

SEC. 21. INVESTIGATION AND REMEDIATION OF ALLEGED REPRISALS FOR DISCLOSURE OF CERTAIN INFORMATION TO CONGRESS.

(a) SUBMITTAL OF ALLEGATIONS TO INSPECTOR GENERAL.—A Department employee or contractor employee who believes that the employee has been discharged, demoted, or otherwise discriminated against as a reprisal for disclosing information referred to in subsection (a) of section 20 in accordance with the provisions of that section may submit a complaint relating to such action to the Inspector General of the Department.

(b) INVESTIGATION.—(1) For each complaint submitted under subsection (a), the Inspector General shall—

(A) determine whether or not the complaint is frivolous; and

(B) if the Inspector General determines the complaint is not frivolous, conduct an investigation of the complaint.

(2) The Inspector General shall submit a report on each investigation undertaken under paragraph (1)(B) to—

(A) the employee who submitted the complaint on which the investigation is based;

(B) the contractor concerned, if any; and

(C) the Secretary.

(c) REMEDIAL ACTIONS.—(1) If the Secretary determines that an employee has been subjected to an adverse personnel action referred to in subsection (a) in contravention of the provisions of section 20(a), the Secretary shall—

(A) in the case of a Department employee, take appropriate actions to abate the action; or

(B) in the case of a contractor employee, order the contractor concerned to take appropriate actions to abate the action.

(2)(A) If a contractor fails to comply with an order issued under paragraph (1)(B), the Secretary may file an action for enforcement of the order in the appropriate United States district court.

(B) In any action brought under subparagraph (A), the court may grant appropriate relief, including injunctive relief and compensatory and exemplary damages.

(d) QUARTERLY REPORT.—(1) Not later than 30 days after the commencement of each fiscal quarter, the Inspector General shall submit to the Committee on Science and other relevant committees of the House of Representatives, and to the Committee on Energy and Natural Resources and other relevant committees of the Senate, a report on the investigations undertaken under subsection (b)(1)(B) during the preceding fiscal quarter, including a summary of the results of such investigations.

(2) A report under paragraph (1) shall not identify or otherwise provide any information on a person submitting a complaint under this section without the consent of the person.

II. PURPOSE OF THE BILL

The purpose of H.R. 1656 is to authorize appropriations for fiscal years (FYs) 2000 and 2001 for the commercial application of energy technology and related civilian energy and scientific research, development and demonstration (RD&D) programs, projects, and activities of the Department of Energy (DOE).

III. BACKGROUND AND NEED FOR THE LEGISLATION

Three circumstances dictate the need for this legislation: (1) the importance of preserving and strengthening the Nation's scientific leadership; (2) the lack of specific authorizations for the bulk of the DOE's civilian commercial application of energy technology and energy and scientific RD&D activities under the Committee on Science's jurisdiction; and (3) the necessity to maintain discretionary budget caps.

In the next century, it is imperative that the United States maintains and improves its scientific, technical, and engineering base to sustain prosperity, meet the challenge of new ideas, and ensure a better quality of life for future generations. Notwithstanding the projections of budget surpluses, competition for scarce Federal discretionary resources by competing interests requires Congress to stress the fundamental importance of Federal science programs to the nation. In this fiscal environment, it is the view of the Committee on Science that funding for basic scientific research should take precedence over activities better conducted by the private sector, which tends to focus more on short-term, applied research.

Within this framework, the Committee on Science continues to support the goal of increasing research funding in a responsible manner. This means that increases must fall within the discretionary budget caps and be predicated upon the following five principles:

1. Federal RD&D must focus on programs that are long-term, high-risk, non-commercial, well-managed, and provide the potential for fruitful scientific advances.

2. Federal RD&D should hue closely to agency missions and be open to rigorous evaluations of quality and results.

3. Beyond the demonstration of technical feasibility, research providing incremental improvements in a product or process design, or associated with marketing and commercialization, should be left to the private sector.

4. Partnerships of all kinds should be encouraged to leverage scarce taxpayer dollars.

5. Infrastructure necessary for carrying out essential Federal RD&D programs needs to be prioritized consistent with program requirements.

The DOE is a major funding source for science—its Office of Science supports the Federal Government's third largest basic research program, exceeded in size only by the National Institutes of Health and the National Science Foundation. In addition, DOE supports major energy RD&D efforts, including solar and renewable energy, energy efficiency, fossil energy, and nuclear and fusion energy.

The general authority for these DOE activities lies in various statutes, including the Atomic Energy Act of 1954, as amended (P.L. 83–703), the Energy Reorganization Act of 1974 (P.L. 93–438), the Federal Nonnuclear Energy Research and Development Act of 1974 (P.L. 93–577), and the Department of Energy Organization Act (P.L. 95–91)—which established DOE in the Executive Branch on October 1, 1977, as an cabinet-level agency. Beyond this general authority, statutes such as the Energy Policy Act of 1992 (P.L. 102–486) authorize numerous specific RD&D activities. However, with 3 exceptions—Hydrogen Research,[1] Next Generation Internet,[2] and Renewable Indian Energy Resources[3]—very few of the Department's civilian programs have specific authorizations. And nearly all such authorizations contained in the Energy Policy of Act of 1992 either have or soon will expire. This circumstance, in and of itself, dictates a compelling need for a comprehensive authorization bill to provide guidance and direction to the Department that will preserve and strengthen the Nation's science base and our energy future.

Under Rule X, clause 1(n)(1) of the Rules of the House, the Committee on Science has jurisdiction over "*all* bills, resolutions, and other matters relating to * * * [*all*] energy research, development, and demonstration, and projects therefor * * *" [emphases added]. Similarly, under Rule X, clause 1(n)(4), the Committee has jurisdic-

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[1] Hydrogen Research is authorized at $35.0 million for FY 2000 and at $40.0 million for FY 2001 by the Hydrogen Future Act of 1996 (P.L. 104–271).

[2] NGI is authorized at $25.0 million for FY 2000 by the Next Generation Internet Research Act of 1998 (P.L. 105–305).

[3] Renewable Indian Energy Resources is authorized at $30.0 million for each of FY 2000–2003 by the Energy Conservation Reauthorization Act of 1998 (P.L. 105–388).

tion over environmental R&D; under Rule X, clause 1(n)(6), the Committee has jurisdiction over the commercial application of energy technology; and under Rule X, clause 1(n)(14), the Committee has jurisdiction over scientific RD&D.

In 1997, the Committee reported H.R. 1277, the DOE Civilian RD&D Authorization Act of 1997, which would have authorized specific sums for DOE's civilian energy and scientific RD&D and related commercial application of energy technology programs for FYs 1998 and 1999. That bill was referred sequentially to the House Committee on Commerce, and was never acted on by the House because the two Committees could not resolve their jurisdictional differences. In the spirit of bipartisan cooperation to address the Commerce Committee's concerns about H.R. 1277, the Science Committee has divided the DOE programs contained in H.R. 1277 into two bills: (1) this bill, H.R. 1656, which authorizes those DOE commercial application of energy technology and related civilian energy and scientific RD&D programs, projects, and activities that the Science Committee shares jurisdiction with the Commerce Committee; and (2) H.R. 1656, which authorizes the DOE civilian energy and scientific RD&D and related commercial application programs, projects, and activities that are under the sole jurisdiction of the Science Committee.[4]

As a result of bipartisan consultations with the Commerce Committee after the introduction of H.R. 1656, Mr. Calvert, Chairman of the Science Committee's Subcommittee on Energy and Environment, offered a manager's amendment on behalf of himself and Mr. Costello, Ranking Minority Member of the Subcommittee on Energy and Environment, that deleted the Field Operations, Oak Ridge Landlord and Building Technology, State, and Community Sector (nongrants) Management and Planning line items from H.R. 1655—items for which the Commerce Committee has now claimed joint jurisdiction[5]—and added them to H.R. 1656. In addition, the manager's amendment struck the Uranium Programs authorization in H.R. 1656.

The Committee believes that this authorization bill—the Department of Energy Commercial Application of Energy Technology Authorization Act of 1999—authorizes the DOE civilian commercial application of energy technology and related scientific RD&D programs, projects, and activities that are the joint jurisdiction of the Science and Commerce Committees, and meets the Committee's responsibilities to set priorities for good fundamental science and a balanced energy research portfolio that is vital to the Nation's future, while maintaining the discretionary budget caps.[6]

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[4] H.R. 1656, as introduced, authorized only those DOE's civilian energy and scientific RD&D and related commercial application of energy technology programs that the Committee on Commerce did not strike from H.R. 1277.

[5] The Field Operations, Oak Ridge Landlord and Building Technology, State, and Community Sector (nongrants) Management and Planning line items were included the Commerce Committee's reported version of H.R. 1277, thereby indicating that at that time the Commerce Committee agreed that these line items were the sole jurisdiction of the Science Committee.

[6] The Committee recognizes that other provisions of the bill, such as those dealing with external regulation and national security, may also fall within the jurisdiction of other committees.

IV. Summary of Hearings

The Subcommittee on Energy and Environment of the Committee on Science held hearings on March 3, March 10, March 24, and April 14, 1999 to hear testimony on the Administration's FY 2000 budget request for the civilian energy and scientific RD&D and related commercial application of energy technology programs, projects, and activities of the DOE.

Appearing as witnesses before the Subcommittee hearing on March 3, 1999, titled "Fiscal Year 2000 Budget Authorization Request: Department of Energy—Offices of Science; Environment, Safety and Health; and Environmental Management," were: Dr. Martha A. Krebs, Director, DOE Office of Science; Dr. David M. Michaels, DOE Assistant Secretary for Environment, Safety and Health (EH); Mr. Dan M. Berkovitz, DOE Deputy Assistant Secretary for Planning, Policy and Budget, Office of Environmental Management (EM); and Mr. Victor S. Rezendes, Director, Energy, Natural Resources, and Science Issues, Development Division, U.S. General Accounting Office (GAO).

Dr. Krebs testified on the $2.85 billion request from the Office of Science. Her testimony included the following:

- DOE ranks second behind the Department of Defense in terms of the investment made in science by the Federal Government.
- Background and status of the Spallation Neutron Source (SNS), including some recent reviews of the project DOE has taken into account in planning the project.
- DOE hopes to use the Scientific Simulation Initiative to build computer and information technology for the second decade of the new century with the hope that the terascale computers developed will be used for numerous projects within DOE and the science community in general.

Dr. Michael's testimony on the $50.8 million EH non-defense budget request discussed the following:

- In 1997 DOE decided to run pilot programs to determine the costs and benefits of external regulation, and subsequently intended to submit legislation to Congress that would externally regulate certain single-purpose energy research laboratories.
- The FY 1999 Energy and Water Development Appropriations Conference Report directed DOE not to begin any pilot projects that did not include the Nuclear Regulatory Commission (NRC), the Occupational Safety and Health Administration (OSHA), and other State and local bodies.
- These pilots have raised unexpected and as yet unresolved issues. With such issues outstanding, DOE does not feel comfortable in submitting single-purpose laboratory external-regulation legislation at this time. DOE, however, is still continuing with external regulation activities.
- Secretary of Energy Richardson designated the Integrated Safety Management (ISM) as the Department's safety policy and is continuing to take step towards implementing ISM.
- EH is currently soliciting input from outside experts with the hope of addressing concerns by workers who claim that their health was put in jeopardy.

Mr. Berkovitz discussed the $330 million non-defense request for EM and said the following:

- EM is responsible for cleaning up government-related nuclear energy research facilities that have accumulated over the past 50 years. In addition, EM is tasked with maintaining the safety and security of weapons-usable plutonium and radioactive spent nuclear fuel.
- EM has set a goal of cleaning up as many sites as possible by the year 2006. There are 48 sites left (down from 53 the previous year) and EM hopes to reduce that number to 42 by the end of FY 2000.
- EM uses technological innovations to contribute to clean-up and continues to research and develop new technologies to aid in the future.

Mr. Rezendes testified on the GAO review of the status of the SNS project and noted the following findings:

- DOE has not assembled a complete team with the necessary technical skills and experience to manage the project.
- The project is underspending its appropriations and has currently spent 60 percent of the planned budget.
- The project's cost and schedule estimates are not fully developed and thus do not represent a reliable estimate baseline. There is also an inadequate allowance for contingencies.
- DOE's complex management structure also creates problems for the SNS project.
- GAO reviewed 80 DOE projects from a 15-year period and found that only 15 were completed and 31 were terminated after spending $10 billion.

Appearing as witnesses before the Subcommittee hearing on March 10, 1999, titled "Fiscal Year 2000 Budget Authorization Request: Department of Energy—Offices of Energy Efficiency and Renewable Energy; Fossil Energy; and Nuclear Energy, Science and Technology," were: The Honorable Dan Reicher, DOE Assistant Secretary for Energy Efficiency and Renewable Energy (EERE); Mr. Robert Kripowicz, DOE Acting Assistant Secretary for Fossil Energy; and Mr. William Magwood, IV, Director, Office of Nuclear Energy, Science and Technology, U.S. Department of Energy.

Mr. Reicher discussed the EERE budget request of just over $1 billion and claimed the following:

- Consumer savings have totaled more than $33 billion since 1978 as a result of several DOE-supported technologies, and energy-intensive industries such as steel, glass, aluminum, and paper have saved $2.1 billion because of energy-saving technologies.
- Renewable energy costs are down 80 percent since 1980.
- DOE wants to reduce energy use 50 percent in new homes and 30 percent in commercial buildings.
- The EERE budget request hopes to keep up this pace as well as reach the following goals: complete work on advanced industrial turbine; accelerate R&D for high efficiency vehicles; increase grants to states for energy work, increase weatherization funding; improve R&D on highly efficient and affordable buildings; and increase the use of coal mixed with biomass.
- Eleven percent of the Office of Power Technologies budget is earmarked, and 93 percent of the remaining funds are distributed

on a competitive basis. The Office of Transportation Technologies is in the 70 to 80 percent competitive awards range and the Office of Industrial Technologies is near 100 percent.

• The next generation of turbines will allow for wind energy in the two to three cents per kilowatt hour range—down from 30 to 40 cents in 1980.

Mr. Kripowicz gave testimony justifying the $364 million budget request by the Office of Fossil Energy (FE), which includes the following:

• FE has set as a priority the development of a virtually pollution-free power plant (named the Vision 21 Power Plant) in the 2015 timeframe. Also a key aspect in this project is higher efficiency resulting in lower costs and fewer emissions of greenhouse gases.

• Another priority of FE is research into carbon sequestration.

• Diversifying the future domestic supplies, including assuring adequate supplies of natural gas at reasonable prices and conducting more research into the potential of methane hydrates, is important.

• FE is also working to provide the technical assistance, including demonstrating improvements in both tools and techniques, as well as developing new technologies to keep oil flowing from the most threatened reserves, as it often costs more to pump out of the ground than it brings on the market. In most fields, only one-third or so of the oil has been produced.

• FE offered the deferral of $246 million from the Clean Coal Technology Program because only two of the 40 projects in the program still require funding.

• Approximately 10 percent of the FE budget is earmarked; the remainder is awarded competitively.

Mr. Magwood discussed the Office of Nuclear Energy, Science and Technology (NE) civilian budget request of $269.3 million, and gave the following justifications for the request:

• The U.S. remains a key international participant in the discussion over future application of nuclear technology. However, this position is in jeopardy as momentum from past accomplishments fades and the nuclear R&D infrastructure decays.

• NE's requested increase of $25 million, as well as increases requested in their university programs, are geared toward keeping the U.S. in a leadership role of nuclear technology.

• NE also is proposing several new projects, including the Nuclear Energy Plant Optimization Program to ensure nuclear plants are safe and efficient over the next three decades and the Advanced Nuclear Medicine Initiative, part of the isotope program, to fight against cancer, arthritis, and other illnesses.

• NE is relying more than ever on outside advice in conducting nuclear R&D activity.

• DOE remains confident that the Electrometallurgical Treatment (EMT) project will continue after an independent review by the National Research Council even though the Administration has proposed cutting $20 million, or one-fourth, of the project's funding.

Appearing as witnesses before the Subcommittee hearing on March 24, 1999, titled "Fiscal Year 2000 Budget Authorization Request: Department of Energy Results Act Implementation," were:

The Honorable Gregory H. Friedman, DOE Inspector General; Ms. Susan D. Kladiva, Associate Director, Energy Resources, and Science Resources, Community, and Economic Development Division, U.S. General Accounting Office (GAO); Mr. John R. Sullivan, Director of Strategic Planning, Budget and Program Evaluation, DOE Office of Policy and International Affairs; and Ms. Gwendolyn Cowan, Director, Office of Procurement and Assistance Policy, DOE Office of Management and Administration.

Mr. Friedman testified on reviews conducted by the Office of Inspector General regarding DOE's implementation of the Government Performance and Results Act (Results Act) and discussed the following findings and recommendations:

- The Offices of Science, NE, and EERE have not integrated their planning, budgeting, and performance measures into a unified strategy. On the other hand, the Offices of Defense Programs and of Environmental Management (EM) have performed such an integration.
- The Offices of Science, NE, and EERE also had limited success in developing results-oriented performance standards while the Office of Defense Programs and EM demonstrated significant progress in this area.
- None of the aforementioned offices adequately validated the estimated and actual costs used to measure performance, which is also a requirement of the Results Act.
- The Office of Inspector General has offered the following recommendations to DOE: (1) enhance the links between overall strategic plan and its individual program office budget request; (2) require program offices to develop performance standards that are results-oriented, clear, measurable, and tied to projected resources; and (3) require program managers to collect and validate both estimated and actual costs used in performance measures.
- DOE made significant use of the peer-review process of off-set problems in defining results and performance goals in areas such as basic research.

Ms. Kladiva discussed GAO's observations concerning DOE's ability to implement GPRA, and noted the following:

- DOE's annual performance plan could be more useful if it better identified planned outcomes, presented information on individual offices' planned performance and requested funds, and described its verification and validation in more detail.
- While many of DOE's goals and measures clearly quantify planned performance, no baseline information is given, and therefore it is impossible to judge how much progress has been made.
- Some of DOE's annual goals and measures are vague and ambiguous and make it difficult to judge performance.
- DOE's measuring system is flawed because it allows DOE to rate incomplete work as successful.
- It is often difficult to associate an office's total planned performance with funds requested because of a complex matrix used by the Department.

Mr. Sullivan testified on DOE's efforts to comply with and implement the Results Act and discussed the following:

• The Department initiated its strategic management system in 1996 which allows it to perform the functions of planning, budgeting, program execution, and evaluation.
• The first performance agreement between the President and the Secretary was published for FY 1995 and the first annual performance report was released later 1995; 1996 brought about the release of the first annual performance plan for the Department.
• The two main challenges remaining for DOE are refining and perfecting measures so that they represent outcomes, not outputs, and ensuring that all Departmental activities, budgets, contracts, and plans clearly link to the strategic plan.
• DOE is planning on using the National Academy of Sciences report to learn how to shape and build their next strategic plan.

Ms. Cowan talked about the progress DOE had made regarding GPRA and also discussed DOE's procurement and financial assistance award activities. She noted that in 1994, the Department eliminated its unique competition policy, the result being that incidents of competition for major contracts has been greater in the subsequent four years than in any time in the Department's history.

The Subcommittee hearing of April 14, 1999, titled "Fiscal Year 2000 Climate Change Budget Authorization Request," examined the Administration's FY 2000 climate change budget proposals related to the Kyoto Protocol and the Protocol's requirement that the U.S. reduce its net greenhouse gas emissions by 7 percent below 1990 levels in the 2008–2012 timeframe—a reduction in projected U.S. carbon emissions of about 550 million metric tons, according to the most recent estimate of the Energy Information Administration (EIA) contained in its Annual Outlook 1999 (AEO99) report. The hearing also considered the U.S. Global Climate Change Research Program (USGCRP).

The Administration's FY 2000 climate change budget request totals $4.142 billion, which includes: (1) $200 million for an EPA "Clean Air Partnership Fund"; (2) $1.368 billion for Climate Change Technology Initiative (CCTI) spending programs; (3) $387 million for CCTI tax incentives; (4) $400 million in other climate-related programs (DOE clean coal and natural gas, weatherization, and state energy grants); and (5) $1.787 billion for the USGCRP.

Appearing as witnesses were: The Honorable Neal F. Lane, Assistant to the President for Science and Technology and Director, Office of Science and Technology Policy; the Honorable Dan W. Reicher, DOE Assistant Secretary for Energy Efficiency and Renewable Energy; the Honorable David M. Gardiner, EPA Assistant Administrator for Policy; and the Honorable Jay E. Hakes, EIA Administrator.

Dr. Lane testified on the Administration's FY 2000 budget requests for CCTI and USGCRP, and noted the following:

• CCTI is the Administration's response to a report issued from the President's Committee of Advisors on Science and Technology (PCAST), which concluded that the federal energy R&D programs were not commensurate in scope and scale with the energy challenges and opportunities for the 21st century. PCAST also warned that this shortfall could translate into higher dependence on imported oil, higher energy costs, smaller U.S. energy technology ex-

ports, worse air quality than would otherwise be the case, and the diminished capacity to reduce greenhouse gas emissions costs effectively.

• U.S. climate change science is largely supported by the $1.8 billion FY 2000 budget request of the USGCRP. This request includes a new Carbon Cycle Science Initiative and the U.S. climate modeling effort.

• The climate change issue requires two issues to be addressed: (1) a sustained and enhanced commitment to energy research, development, and deployment; and (2) continued research into the science of climate change.

Mr. Reicher testified on the DOE's FY 2000 climate change budget request of approximately $1.1 billion, and Mr. Gardiner discussed EPA's role in CCTI and its FY 2000 budget requests of $216 million for CCTI and $200 million for a Clean Air Partnership Fund.

Finally, Dr. Hakes gave testimony on the EIA report, Analysis of The Climate Change Technology Initiative, which was conducted at the request of Science Committee Chairman Sensenbrenner and Ranking Minority Member George Brown, Jr. The EIA analysis predicts that the CCTI tax incentives would only reduce projected U.S. carbon emissions in 2010 by 3.1 million metric tons, or 0.17 percent. The EIA also found that while research, development, and deployment programs also have benefits in reducing carbon emissions, it is not possible to link program expenditures directly to program results or to separate the impacts of incremental funding requested for FY 2000 from ongoing program expenditures. In addition, Dr. Hakes testified that the current EIA AE099 estimates already include the impacts of ongoing research and development.

V. Committee Actions

As summarized above, the Subcommittee on Energy and Environment of the Committee on Science heard testimony relevant to the programs authorized in H.R. 1656 at hearings held on March 3, March 10, March 24, and April 14, 1999.

On May 3, 1999, Mr. Ken Calvert, Chairman of the Subcommittee on Energy and Environment, introduced H.R. 1656, the Department of Energy Commercial Application of Energy Technology Authorization Act of 1999, a bill to authorize appropriations for FY 2000 and FY 2001 for the commercial application of energy technology and related energy and scientific R&D programs, projects, and activities of the DOE.

The Committee on Science met to consider H.R. 1656 on Wednesday, May 26, 1999, and entertained the following amendments and report language.

Amendment 1.—Mr. Calvert, Chairman of the Science Committee's Subcommittee on Energy and Environment, offered a manager's amendment on behalf of himself and Mr. Costello, Ranking Minority Member of the Subcommittee on Energy and Environment, that: (1) made technical and conforming changes to H.R. 1656, as introduced; (2) added reporting requirements to the provisions in the bill dealing with Fossil Energy and Energy Efficiency Initiatives; (3) clarified the intent of the "Limitations on Demonstrations" section; (4) raised the limits on the provisions dealing

with General Plant Projects, Construction Projects, Authority for Conceptual and Construction Designs; and (5) clarified the intent of the "Production or Provision of Articles or Services" and the "Eligibility of Awards" sections. As a result of bipartisan consultations with the Commerce Committee, the manager's amendment also transferred the Field Operations, Oak Ridge Landlord and Building Technology, State, and Community Sector (nongrants) Management and Planning line items to H.R. 1656 from H.R. 1655, as introduced, and deleted the authorization for Uranium Programs.

Amendment 2.—Mr. Udall withdrew an amendment to the manager's amendment (Amendment 1) that added: (1) $3,664,000 for FY 2000 and $3,774,060 for FY 2001 for Buildings Standards and Guidelines; (2) $6,954,000 for FY 2000 and $7,162,290 for FY 2001 for Lighting and Appliance Standards; and (3) $2,147,000 for FY 2000 and $2,606,540 for FY 2001 for Building Technology, State, and Community Sector (nongrants) Management.

Amendment 3.—Mr. Udall offered an amendment that added: (1) $3,664,000 for FY 2000 and $3,774,060 for FY 2001 for Buildings Standards and Guidelines; (2) $6,954,000 for FY 2000 and $7,162,290 for FY 2001 for Lighting and Appliance Standards; and (3) $2,147,000 for FY 2000 and $2,606,540 for FY 2001 for Building Technology, State, and Community Sector (nongrants) Management. The amendment was adopted by voice vote.

Amendment 4.—Ms. Biggert offered an amendment requiring the Secretary of Energy to make available through DOE's Internet home page abstracts relating to all research grants and awards made with funds authorized by this Act, with the proviso that nothing in the amendment shall be construed to require or permit the release of any information prohibited by law or regulation from being released to the public. The amendment was adopted by voice vote.

Amendment 5.—Mr. Costello, on behalf of himself and Mr. Nethercutt, offered an amendment prohibiting the Secretary of Energy from admitting to any classified facility of any DOE Laboratory, or to any facility of any DOE Laboratory to discuss sensitive subject material, an individual who is a citizen of a nation that is named on the DOE List of Sensitive Countries. The amendment was adopted by voice vote.

Amendment 6.—Mr. Etheridge offered an amendment requiring, among other things, that the Secretary of Energy ensure consistency of technology transfer policies and procedures with respect to patenting, licensing, and commercialization for the DOE-owned laboratories carrying out programs under this Act. The amendment was adopted by voice vote.

Amendment 7.—Mr. Costello offered an amendment providing for civil monetary penalties for DOE-contractor violations of DOE regulations regarding the safeguarding or security of Restricted Data or other classified or sensitive information. The amendment was adopted by voice vote.

Amendment 8.—Mr. Calvert, on behalf of himself and Mr. Rohrabacher, offered an amendment requiring the Secretary of Energy to establish a whistleblower protection program, and also providing for an investigative and remediation process for alleged reprisals against whistleblowers. The amendment was adopted by voice vote.

Report Language.—Mr. Calvert asked and received unanimous consent that: (1) the budget table for H.R. 1656 be included in the bill's report language; (2) staff be permitted to make technical corrections to the table; (3) the minority be given the opportunity to examine the table in detail and negotiate over its content; and (4) upon completion of negotiations a final version be signed by a majority of the Committee, and thereafter the minority have two subsequent days to file any minority supplemental or additional views.

With a quorum present, Mr. Costello moved that the Committee favorably report the bill, H.R. 1656, as amended, the House with the recommendation that the bill as amended do pass, that the staff be instructed to prepare the legislative report and make necessary technical and conforming changes, and that the Chairman take all necessary steps to bring the bill before the House for consideration. The motion was adopted by a voice vote.

Mr. Sensenbrenner asked and received unanimous consent that: (1) Members have two subsequent calendar days in which to submit supplemental, minority or additional views on the measure; (2) pursuant to clause 1 of Rule XXII of the Rules of the House of Representatives, the Chairman may offer such motions as may be necessary in the House to go to conference with the Senate on H.R. 1656 or a similar Senate bill; (3) staff be given authority to make technical and conforming changes; and (4) the bill be reported in the form of a single amendment in the nature of a substitute reflecting amendments adopted.

VI. Summary of Major Provisions of the Bill

As shown in Tables 1 and 2 below, H.R. 1656 authorizes for DOE civilian commercial application of energy technology and related energy and scientific RD&D programs, projects, and activities $702,759,000 for FR 2000 and $711,746,890 for FY 2001, to remain available through the end of FY 2002, of which—(1) $309,662,000 for FY 2000 and $306,857,000 for FY 2001 is for Energy Supply; (2) $330,934,000 for FY 2000 and $340,862,000 for FY 2001 is for Non-Defense Environmental Management; (3) $10,000,000 for FY 2000 and $10,300,000 for FY 2001 is for Fossil Energy R&D; and (4) $52,163,000 for FY 2000 and $53,727,890 for FY 2001 is for Energy Conservation R&D.

Other provisions of the bill include the following:

- Limits the amounts of funds that may be reprogrammed.
- Limits DOE funding for civilian or scientific or related commercial application of energy technology demonstration programs, projects, or activities to technologies and processes that can be reasonably expected to yield new, measurable benefits to the cost, efficiency, or performance of the technology or process.
- Limits funding for general plant and construction projects that overrun costs and amounts that may be spent for conceptual and construction design of a construction project in the absence of a specific authorization.
- Prohibits the use of Clean Coal Technology Reserve funds to initiate or carry out a clean coal technology energy demonstration project based outside the U.S.
- Provides that not more than 1 percent of the funds authorized by this Act may be used either directly or indirectly to fund travel

costs of the Department or travel costs for its contractors or subcontractors. As part of the Department's annual budget request submission to the Congress, the Secretary must submit a report identifying travel costs, the purposes of such travel, and the sources of the funds used.

• Provides that no funds authorized by the Act may be used either directly or indirectly to fund a grant, contract, subcontract or any other form of financial assistance awarded by the Department to a trade association on a noncompetitive basis. As part of the Department's annual budget request submission to the Congress, the Secretary shall also submit a report identifying the amount of funds provided to trade associations, the services provided, and the sources of the funds used.

• Prohibits DOE from using of any funds authorized by the bill to: (1) award a management and operating contract for one of its federally owned or operated civilian energy laboratories unless the Secretary of Energy grants a case-by-case waiver and reports to Congress; (2) award, amend, or modify a contact that deviates from the Federal Acquisition Regulation (FAR), unless the Secretary grants on a case-by-case basis, a waiver to allow for such a deviation and reports to Congress on the reasons for the waiver; (3) prepare or initiate Requests for Proposals (RFPs) for unauthorized programs, projects or activities; or (4) produce or provide articles or services for the purpose of selling them to a person outside the Federal Government, unless the Secretary of Energy determines that comparable articles or services are not available from a commercial source in the U.S.

• Excludes from consideration for grant agreements made after 1999 by the DOE for a period of 5 years any person who received funding for a project not subject to a competitive, merit-based award process, except as specifically authorized by the bill.

• Requires the Secretary of Energy to make available through DOE's Internet home page the abstracts relating to all research grants and awards made with funds authorized by the bill.

• Prohibits the Secretary of Energy from admitting to any classified facility of any DOE Laboratory, or to any facility of any DOE Laboratory to discuss sensitive subject material, an individual who is a citizen of a nation that is named on the DOE List of Sensitive Countries, unless the Secretary waives the prohibition on a case-by-case basis if the Secretary determines that such access is necessary for the national security of the U.S., and, within 30 days after granting the waiver submits a report to Congress justifying the waiver.

• Requires the Secretary of Energy to ensure for the DOE-owned laboratories carrying out programs under this Act: (1) consistency of technology transfer policies and procedures with respect to patenting, licensing, and commercialization; (2) the availability to aggrieved private sector entities on request of binding alternative dispute resolution, nonbinding alternative dispute resolution, mediation, negotiation between authorized representatives of the disputing parties, or resolution by the Department's site contracting officer to resolve disputes regarding all technology transfer and intellectual property matters, with costs and damages to be provided for by the contractor to the extent that any such resolution at-

tributes fault to the contractor; (3) annual reports to the Secretary, as part of the annual performance evaluation, on technology transfer and intellectual property successes, current technology transfer and intellectual property disputes involving the laboratory, and progress toward resolving those disputes; and (4) training to ensure that laboratory personnel responsible for patenting, licensing, and commercialization activities are knowledgeable of the appropriate legal, procedural, and ethical issues necessary to carry out those activities with the highest possible professional and ethical standards.

- Amends the Atomic Energy Act of 1954 (42 U.S.C. 2241 et seq.) by inserting a new section authorization of assessment of civil penalties of not more than $100,000 per incidence for a DOE contractor who violates (or whose employee violates) any applicable DOE rule, regulation, or order relating to the safeguarding or security of Restricted Data or other classified or sensitive information.
- Requires the Secretary of Energy to establish a whistleblower protection program;
- Provides for an investigative and remediation process for alleged reprisals against whistleblowers.

Table 1. H.R. 1656—Department of Energy Commercial Application of Energy Technology Authorization Act of 1999
(In Dollars)

Program/Activity	FY 1999 Appropriation	FY 2000 Request	FY 2000 Recommendation	FY 2000 Recommendation Compared With (+ or -) FY 1999 Appropriation	FY 2001 Recommendation	FY 2001 Recommendation Compared With (+ or -) FY 2000 Recommendation
Energy Supply Budget Authority	315,473,000	289,662,000	339,662,000	+24,189,000	336,857,000	-2,805,000
Less Renewable Indian Energy Resources (P.L. 105-245 and P.L. 105-388)	-4,779,000	0	-30,000,000	-25,221,000	-30,000,000	0
Energy Supply Budget Authorization	310,694,000	289,662,000	309,662,000	-1,032,000	306,857,000	-2,805,000
Non-Defense Environmental Management	431,200,000	330,934,000	330,934,000	-100,266,000	340,862,000	+9,928,000
Fossil Energy R&D	11,000,000	10,000,000	10,000,000	-1,000,000	10,300,000	+300,000
Energy Conservation R&D	36,151,000	52,163,000	52,163,000	+16,012,000	53,727,890	+1,564,890
Total, H.R. 1656 Budget Authorization	**789,045,000**	**682,759,000**	**702,759,000**	**-86,286,000**	**711,746,890**	**+8,987,890**
Renewable Indian Energy Resources (P.L. 105-245 and P.L. 105-388)	4,779,000	0	30,000,000	25,221,000	30,000,000	0
Total, H.R. 1656 Budget Authority	**793,824,000**	**682,759,000**	**732,759,000**	**-61,065,000**	**741,746,890**	**+8,987,890**

Table 2. H.R. 1656—Department of Energy Commercial Application of Energy Technology Authorization Act of 1999
(Dollars in Thousands)

Appropriation Account/ Program/Activity	FY 1999 Appropriation	FY 2000 Request	FY 2000 Recommendation	FY 2000 Recommendation Compared With (+ or -) FY 1999 Appropriation	FY 2001 Recommendation	FY 2001 Recommendation Compared With (+ or -) FY 2000 Appropriation
ENERGY SUPPLY						
Solar and Renewable Resources Technologies						
Renewable Indian Energy Resources (P.L. 105-388)	4,779,000	0	30,000,000	+25,221,000	30,000,000	0
Federal Building/Remote Power Initiative (P.L. 105-245)	4,000,000	0	0	-4,000,000	0	0
Total, Solar and Renewable Resources Technologies	**8,779,000**	**0**	**30,000,000**	**+21,221,000**	**30,000,000**	**0**
Nuclear Energy						
Termination Costs	85,000,000	65,000,000	85,000,000	0	87,550,000	+2,550,000
Fast Flux Test Facility	30,000,000	30,000,000	30,000,000	0	30,900,000	+900,000
Isotope Support						
Operation and Maintenance	15,500,000	13,000,000	13,000,000	-2,500,000	13,390,000	+390,000
Construction: 99-E-201 Isotope Production Facility, Los Alamos National Laboratory	6,000,000	8,000,000	8,000,000	+2,000,000	0	-8,000,000
Total, Isotope Support	21,500,000	21,000,000	21,000,000	-500,000	13,390,000	-7,610,000
Total, Nuclear Energy	**136,500,000**	**116,000,000**	**136,000,000**	**-500,000**	**131,840,000**	**-4,160,000**
Environment, Safety and Health (ES&H)—Non-Defense						
Office of ES&H—Non-Defense	32,000,000	31,752,000	31,752,000	-248,000	32,705,000	+953,000
Program Direction	18,398,000	18,998,000	18,998,000	+600,000	18,998,000	0
Subtotal, ES&H—Non-Defense	50,398,000	50,750,000	50,750,000	+352,000	51,703,000	+953,000
Use of Prior Year Balances	-2,970,000	0	0	+2,970	0	0
Total, ES&H—Non-Defense	**47,428,000**	**50,750,000**	**50,750,000**	**+3,322,000**	**51,703,000**	**+953,000**

Table 2. H.R. 1656—Department of Energy Commercial Application of Energy Technology Authorization Act of 1999
(Dollars in Thousands)

Appropriation Account/ Program/Activity	FY 1999 Appropriation	FY 2000 Request	FY 2000 Recommendation	FY 2000 Recommendation Compared With (+ or -) FY 1999 Appropriation	FY 2001 Recommendation	FY 2001 Recommendation Compared With (+ or -) FY 2000 Appropriation
Technical Information Management						
Program Support	1,600,000	1,600,000	1,600,000	0	1,648,000	+48,000
Program Direction	7,000,000	7,500,000	7,500,000	+500,000	7,500,000	0
Subtotal, Technical Information Management	8,600,000	9,100,000	9,100,000	+500,000	9,148,000	+48,000
Use of Prior Year Balances	-191,000	0	0	+191,000	0	0
Total, Technical Information Management	**8,409,000**	**9,100,000**	**9,100,000**	**+691,000**	**9,148,000**	**+48,000**
Field Operations						
Field Operations	104,127,000	102,000,000	102,000,000	-2,127,000	102,000,000	0
Use of Prior Year Balances	-176,000	0	0	+176,000	0	0
Total, Field Operations	**103,951,000**	**102,000,000**	**102,000,000**	**-1,951,000**	**102,000,000**	**0**
Oak Ridge Landlord						
Oak Ridge Landlord	11,000,000	11,812,000	11,812,000	+812,000	12,166,000	+354,000
Use of Prior Year Balances	-594,000	0	0	+594,000	0	0
Total, Oak Ridge Landlord	**10,406,000**	**11,812,000**	**11,812,000**	**+1,406,000**	**12,166,000**	**+354,000**
Total, ENERGY SUPPLY Budget Authority	315,473,000	289,662,000	339,662,000	+24,189,000	336,857,000	-2,805,000
Less Renewable Indian Energy Resources (P.L. 105-388)	-4,779,000	0	-30,000,000	-25,221,000	-30,000,000	0
Total, ENERGY SUPPLY Budget Authorization	**310,694,000**	**289,662,000**	**309,662,000**	**-1,032,000**	**306,857,000**	**-2,805,000**
NON-DEFENSE ENVIRONMENTAL MANAGEMENT						
Site Closure	248,485,000	211,146,000	211,146,000	-37,339,000	217,480,000	+6,334,000
Site/Project Completion	101,325,000	100,866,000	100,866,000	-459,000	103,892,000	+3,026,000
Post 2006 Completion	87,524,000	18,922,000	18,922,000	-68,602,000	19,490,000	+568,000
Subtotal, Non-Defense Environmental Management	437,334,000	330,934,000	330,934,000	-106,400,000	340,862,000	+9,928,000
Use of Prior Year Balances/Other Adjustments	-6,134,000	0	0	+6,134,000	0	0
Total, NON-DEFENSE ENVIRONMENTAL MANAGEMENT	**431,200,000**	**330,934,000**	**330,934,000**	**-100,266,000**	**340,862,000**	**+9,928,000**

Table 2. H.R. 1656—Department of Energy Commercial Application of Energy Technology Authorization Act of 1999
(Dollars in Thousands)

Appropriation Account/ Program/Activity	FY 1999 Appropriation	FY 2000 Request	FY 2000 Recommendation	FY 2000 Recommendation Compared With (+ or -) FY 1999 Appropriation	FY 2001 Recommendation	FY 2001 Recommendation Compared With (+ or -) FY 2000 Appropriation
FOSSIL ENERGY R&D						
Fossil Energy Environmental Restoration	11,000,000	10,000,000	10,000,000	-1,000,000	10,300,000	+300,000
Total, FOSSIL ENERGY R&D	**11,000,000**	**10,000,000**	**10,000,000**	**-1,000,000**	**10,300,000**	**+300,000**
ENERGY CONSERVATION R&D						
Transportation Sector						
Technology Deployment						
Clean Cities	7,905,000	10,700,000	10,700,000	+2,795,000	11,021,000	+321,000
Total, Technology Deployment	7,905,000	10,700,000	10,700,000	+2,795,000	11,021,000	+321,000
Total, Transportation Sector	**7,905,000**	**10,700,000**	**10,700,000**	**+2,795,000**	**11,021,000**	**+321,000**
Building Technology, State and Community Sector—Non-Grants						
Codes and Standards						
Building Standards and Guidelines	8,872,000	12,802,000	12,802,000	+3,930,000	13,186,060	+384,060
Lighting and Appliance Standards	6,203,000	13,343,000	13,343,000	+7,140,000	13,743,290	+400,290
Total, Codes and Standards	15,075,000	26,145,000	26,145,000	+11,070,000	26,929,350	+784,350
Management and Planning	13,171,000	15,318,000	15,318,000	+2,147,000	15,777,540	+459,540
Total, Building Technology, State & Community Sector—Non-Grants	**28,246,000**	**41,463,000**	**41,463,000**	**+13,217,000**	**42,706,890**	**+1,243,890**
Total, ENERGY CONSERVATION R&D	**36,151,000**	**52,163,000**	**52,163,000**	**+16,012,000**	**53,727,890**	**+1,564,890**
Total, H.R. 1656 Budget Authorization	**789,045,000**	**682,759,000**	**689,994,000**	**-99,051,000**	**698,204,000**	**+8,210,000**
Renewable Indian Energy Resources (P.L. 105-388)	4,779,000	0	30,000,000	+25,221,000	30,000,000	0
Total, H.R. 1656 Budget Authority	**793,824,000**	**682,759,000**	**719,994,000**	**-73,830,000**	**728,204,000**	**+8,210,000**

VII. Section-by-Section Analysis and Committee Views

Section 1. Short title

Section 1 cites the Act as the "Department of Energy Commercial Application of Energy Technology Authorization Act of 1999."

Section 2. Definitions

Section 2 defines: (1) the "Department" as the Department of Energy; and (2) the "Secretary" as the Secretary of Energy.

Section 3. Authorization of appropriations

Subsection 3(a) authorizes $309,662,000 for FY $306,857,000 for FY 2001 for Energy Supply commercial application of energy technology and related civilian energy and scientific RD&D operation and maintenance programs, projects and activities for which specific sums are not authorized under other authority of law, to remain available through the end of FY 2002, which:

(1) $136,000,000 for FY 2000 and $131,840,000 for FY 2001 shall be for Nuclear Energy, including—(A) $85,000,000 for FY 2000 and $87,550,000 for FY 2001 for Termination Costs; (B) $30,000,000 for FY 2000 and $30,900,000 for FY 2001 for the Fast Flux Test Facility; (C) $13,000,000 for FY 2000 and $13,390,000 for FY 2001 for Isotope Support; and (D) $8,000,000 for FY 2000 for completion of Project 98–E–201, Isotope Production Facility, Los Alamos National Laboratory.

(2) $50,750,000 for FY 2000 and $51,703,000 for FY 2001 shall be for Environment, Safety, and Health;

(3) $9,100,000 for FY 2000 and $9,148,000 for FY 2001 shall be for Technical Information Management;

(4) $102,000,000 for FY 2000 and $102,000,000 for FY 2001 shall be for Field Operations;

(5) $11,812,000 for FY 2000 and $12,166,000 for FY 2001 shall be for Oak Ridge Landlord.

Subsection 3(b) authorizes to be appropriated $330,934,000 for FY 2000 and $340,862,000 for FY 2001 for Non-Defense Environmental Management commercial application of energy technology and related civilian scientific and energy RD&D operation and maintenance programs, projects and activities for which specific sums are not authorized under other authority of law, to remain available through the end of FY 2002, of which:

(1) $211,146,000 for FY 2000 and $217,480,000 for FY 2001 shall be for Site Closure;

(2) $100,866,000 for FY 2000 and $103,892,000 for FY 2001 shall be for Site Project Completion;

(3) $18,922,000 for FY 2000 and $19,490,000 for FY 2001 shall be for post 2006 completion.

Subsection 3(c) authorizes to be appropriated $10,000,000 for FY 2000 and $10,300,000 for FY 2001 for Fossil Energy Research and Development Environmental Restoration commercial application of energy technology and related energy and scientific RD&D programs, projects and activities for which specific sums are not authorized under other authority of law, to remain available through the end of FY 2002.

Finally, subsection 3(d) authorizes to be appropriated $52,163,000 for FY 2000 and $53,727,890 for FY 2001 for Energy Conservation Research and Development commercial application of energy technology and related energy and scientific RD&D operation and maintenance programs, projects and activities for which specific sums are not authorized under other authority of law, to remain available through the end of FY 2002, of which:

(1) $10,700,000 for FY 2000 and $11,021,000 for FY 2001 shall be for Clean Cities;

(2) $12,802,000 for FY 2000 and $13,186,060 for FY 2001 shall be for Building Standards and Guidelines;

(3) $13,343,000 for FY 2000 and $13,743,290 for FY 2001 shall be for Lighting and Appliance Standards; and

(4) $15,318,000 for FY 2000 and $15,777,540 for FY 2001 shall be for Management and Planning for the Building Technology, State and Community Sector (nongrants).

Section 4. Notice

Subsections 4(a) and (b) allow the Secretary to reprogram funds for any authorized civilian energy or scientific research, development, or demonstration or related commercial application of energy technology programs, projects, or activities of the Department—(1) up to the lesser of $250,000 or 5 percent of the total funding for a fiscal year of another such program, project or activity of the Department; or (2) up to 25 percent of the total funding for a fiscal year for such program, project, or activity of the Department after the Secretary has transmitted a report containing a full and complete statement of the action proposed to be taken and the facts and circumstances that support such proposed action to the Committee on Science and the Committee on Appropriations of the House, and to the Committee on Energy and Natural Resources and the Committee on Appropriations of the Senate and a period of 60 days has elapsed after the date on which the report is received (excluding any day on which either House of Congress is not in session because of an adjournment of more than 3 days to a day certain).

Subsection 4(c) prohibits the use of reprogrammed funds for a program, project, or activity for which funding has been requested to the Congress but which has not been funded by the Congress.

Subsection 4(d) requires the Secretary to provide notice to the Committee on Science and the Committee on Appropriations of the House, and to the Committee on Energy and Natural Resources and the Committee on Appropriations of the Senate, not later than 15 days before any major reorganization of any civilian energy or scientific research, development, or demonstration or related application of energy technology program, project, or activity of the Department.

Subsection 4(e) requires the Secretary to provide copies to the Committee on Science and the Committee on Appropriations of the House, and to the Committee on Energy and Natural Resources and the Committee on Appropriations of the Senate, of any report relating to the civilian energy or scientific research, development, or demonstration or related commercial application of projects, pro-

grams and activities of the Department prepared at the direction of any committee of Congress.

Section 5. Limitation on demonstrations

Subsection 5 requires DOE to provide funding only for civilian energy or scientific or commercial application of energy technology demonstration programs, projects and activities for technologies or processes that can reasonably be expected to yield new, measurable benefits to the costs, efficiency, or performance of the technology or process.

Section 6. Limits on general plant projects

Section 6 requires the Secretary to halt the construction of a civilian energy or scientific research, development, or demonstration or related commercial application of energy technology "general plant project" if the estimated cost of the project (including any revisions) exceeds $2,000,000 unless the Secretary has furnished a complete report to the Committee on Science and the Committee on Appropriations of the House, and to the Committee on Energy and Natural Resources and the Committee on Appropriations of the Senate, explaining the project and the reasons for the estimate or revision.

Section 7. Limits on construction projects

Section 7 prohibits construction on a civilian energy or scientific research, development, or demonstration or related commercial application of energy technology construction project for which funding has been specifically authorized by law to be initiated and continued if the estimated cost for the project exceeds 110 percent of the higher of: (1) the amount authorized for the project, or (2) the most recent total estimated cost presented to the Congress as justification for such project. To exceed such limits, the Secretary of Energy must report in detail to the Committee on Science and the Committee on Appropriations of the House, and to the Committee on Energy and Natural Resources and the Committee on Appropriations of the Senate and the report must be before the committees for 30 legislative days (excluding any day on which either House of Congress is not in session because of an adjournment of more than 3 days to a day certain). This section shall not apply to any construction project which has a current estimated cost of less than $2,000,000.

Section 8. Authority for conceptual and construction design

Section 8 limits the Secretary's authority to request construction funding in excess of $2,000,000 for a civilian energy or scientific research, development, or demonstration or related commercial application of energy technology construction project until the Secretary has completed a conceptual design for that project. Furthermore, if the estimated cost of completing a conceptual design for the construction project exceeds $750,000, the Secretary must submit a request to Congress for funds for the conceptual design before submitting a request for the construction project.

In addition, the section allows the Secretary to carry out construction design (including architectural and engineering services)

in connection with any proposed construction project that is in support of a civilian energy or scientific research, development, or demonstration or related commercial application of energy technology program, project, or activity of the Department if the total estimated cost for such design does not exceed $250,000; if the total estimated cost for construction design exceeds $250,000, funds for such design must be specifically authorized by law.

Section 9. Limits of use of funds

Subsection 9(a) prohibits the obligation of any funds in the Clean Coal Technology Reserve from being used to initiate or carry out a clean coal technology demonstration project based outside the U.S.

Subsection 9(b) provides that not more than 1 percent of the funds authorized by this Act may be used either directly or indirectly to fund travel costs of the Department or travel costs for persons awarded contracts or subcontracts by the Department. As part of the Department's annual budget request submission to the Congress, the Secretary must submit a report to the Committee on Science and Committee on Appropriations of the House, and to the Committee on Energy and Natural Resources and Committee on Appropriations of the Senate that identifies—(1) the estimated amount of travel costs by the Department and for persons awarded contracts or subcontracts by the Department for the fiscal year of such budget submission, as well as for the two previous years; (2) the major purposes for such travel; and (3) the sources of funds for such travel.

Subsection 9(c) provides that no funds authorized by the Act may be used either directly or indirectly to fund a grant, contract, subcontract or any other form of financial assistance awarded by the Department to a trade association on a noncompetitive basis. As part of the Department's annual budget request submission to the Congress, the Secretary shall also submit a report to the Committee on Science and Committee on Appropriations of the House, and to the Committee on Energy and Natural Resources and Committee on Appropriations of the Senate that shall identify—(1) the estimated amount of funds provided by the Department to trade associations, by trade association, for the fiscal year of such budget submission, as well as for the two previous years; (2) the services either provided or to be provided by each such trade association; and (3) the sources of funds for services provided by each such trade association.

Section 10. Management and operating contracts

Subsection 10(a) prohibits the use of funds authorized by this Act to award a management and operating contract for a federally owned or operated civilian energy laboratory of the Department unless such contract is awarded using competitive procedures or the Secretary grants, on a case-by-case basis, a waiver to allow for such a deviation. The Secretary may not delegate the authority to grant such a waiver.

In the event the Secretary intends to grant a waiver to the subsection 10(a) prohibition, subsection 10(b) requires the Secretary to submit at least 60 days in advance of such waiver a report to the

Committee on Science and the Committee on Appropriations of the House, and to the Committee on Energy and Natural Resources and the Committee on Appropriations of the Senate, notifying the committees of the waiver and setting forth the reasons for the waiver.

Section 11. Federal acquisition regulation

Subsection 11(a) prohibits the use of funds authorized by this Act to be used to award, amend, or modify a contract of the Department in a manner that deviates from the FAR unless the Secretary grants, on a case-by-case basis, a waiver to allow for such a deviation. The Secretary may not delegate the authority to grant such a waiver.

Subsection 11(b) requires that at least 60 days before a contract award, amendment, or modification for which the Secretary intends to grant such a waiver, the Secretary shall submit to the Committee on Science and the Committee on Appropriations of the House, and to the Committee on Energy and Natural Resources and the Committee on Appropriations of the Senate, a report notifying the committees of the waiver and setting forth the reasons for the waiver.

Section 12. Requests for proposals

Subsection 12 prohibits the Department from using funds authorized by this Act to prepare or initiate RFPs for a civilian energy or scientific research, development, and demonstration or commercial application of energy technology program, project, or activity if the program, project or activity has not been specifically authorized by Congress.

Section 13. Production or provision of articles or services

Subsection 13 prohibits the use of funds authorized by this Act by any civilian energy or scientific research, development, and demonstration or related commercial application of energy technology programs, project, or activity of the Department to produce or provide articles or services for the purpose of selling the articles or services to a person outside the Federal Government, unless the Secretary determines that comparable articles or services are not available from a commercial source in the United States. The only exception to this prohibition is the transmission and sale of electricity by any Federal power marketing administration.

Section 14. Eligibility for awards

Subsection 14(a) requires the Secretary to exclude from consideration for grant agreements for civilian energy or scientific research, development, or demonstration or related commercial application of energy technology programs, projects and activities made by the Department after 1999 any person who received funds, other than those described in subsection 14(b), appropriated for a fiscal year after FY 1999, under a grant agreement from any Federal funding source for a project that was not subjected to a competitive, merit-based award process, except as specifically authorized by this Act. Any exclusion from consideration pursuant to this section shall be

effective for a period of 5 years after the person receives such Federal funds.

Subsection 14(b) provides that subsection 14(a) shall not apply to the receipt of Federal funds by a person due to the membership of that person in a class specified by law for which assistance is awarded to members of the class according to a formula provided by law, or under circumstances permitting other than full and open competition under the Federal Acquisition Regulation.

Subsection 14(c) defines the term "grant agreement" to mean a legal instrument whose principal purpose is to transfer a thing of value to the recipient to carry out a public purpose of support or stimulation authorized by a law of the United States, and does not include the acquisition (by purchase, lease, or barter) of property or services for the direct benefit or use of the United States Government. Such term also does not include a cooperative agreement (as such term is used in section 6305 of title 31, United States Code) or a cooperative research and development agreement (as such term is defined in section 12(d)(1) of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3710a(d)(1))).

Section 15. External regulation

Subsection 15(a) provides that—effective January 1, 2000—the Department shall have no regulatory or enforcement authority, through rules, regulations, orders, and standards, or reporting requirements, with respect to Federal, State, and local environmental, safety, and health requirements at any federally owned or operated nonmilitary energy laboratory (hereafter referred as "laboratory"), except to the extent that no other Federal, State, or local government agency has such regulatory or enforcement authority.

Subsection 15(b) provides that—also effective January 1, 2000—the NRC shall assume the regulatory and enforcement responsibilities of the Department under the Atomic Energy Act of 1954 with regard to laboratories, including such responsibilities with respect to accelerator-produced radioactive material and ionizing radiation generating machines. For the purposes of carrying out these responsibilities, the NRC may regulate and license or provide certification for the Department, the Department's contractor, or both. A contractor operating a laboratory shall not be responsible for the costs of decommissioning that facility, and no enforcement action may be taken against such contractor for any violation of NRC decommissioning requirements, if such violation is the result of a failure of the Department to authorize or fund decommissioning activities. Not later than July 1, 2000, the NRC and the Department shall enter into a memorandum of understanding establishing laboratory decommissioning procedures and requirements.

Subsection 15(c) provides that—effective January 1, 2000—OSHA shall assume the Department's regulatory and enforcement responsibilities of the Department to matters covered by the Occupational Safety and Health Act of 1970 with regard to all laboratories. The Department's contractor or contractors operating those laboratories shall be considered employers for purposes of the Occupational Safety and Health Act of 1970. Furthermore, section 4(b)(1) of the Occupational Safety and Health Act of 1970, which prohibits OSHA from regulating the Department or the NRC, shall

not apply with respect to the Department's or the NRC's regulation of the laboratories, and the Secretary of Labor may enforce current Department radiation protection regulations. Within 90 days of the date of enactment of this Act, the Department and OSHA shall enter into a memorandum of understanding to govern the exercise of their respective authorities over occupational safety and health hazards at the laboratories.

Subsection 15(d) provides that Department's contractor operating a laboratory shall not be liable for civil penalties under the Atomic Energy Act of 1954 or the Occupational Safety and Health Act of 1970 for any actions taken before October 1, 2000, pursuant to the transfer of regulatory and enforcement responsibilities required by this section.

Subsection 15(e) requires the Secretary to continue to indemnify laboratories in accordance with the provisions of section 170d. of the Atomic Energy Act of 1954.

And finally, subsection 15(f) requires the Secretary to transmit, by October 1, 1999, to the Committee on Science and the Committee on Appropriations of the House, and the Committee on Energy and Natural Resources and the Committee on Appropriations of the Senate, a plan for the termination of the Department's regulatory and enforcement responsibilities for laboratories required by this section. The report shall include—(1) a detailed transition plan, drafted in coordination with the NRC and OSHA, giving the schedule for termination of self-regulation authority as outlined in subsection 15(a) above, including the activities to be coordinated with the NRC and OSHA; (2) a description of any issues remaining to be resolved with the NRC and OSHA, or other external regulators, and a timetable for resolving such issues before January 1, 2000; (3) an estimate of—(A) the annual cost of administering and implementing self-regulation of environmental, safety, and health activities at the laboratories; (B) the number of Federal and contractor employees administering and implementing such self-regulation; (C) the cost of external regulation based on the pilot projects of simulated NRC regulation which have already been conducted; and (D) the extent and schedule by which the Department and laboratory staffs will be reduced as a result of implementation of this section; and (4) a description of regulatory or enforcement authorities the Department determines it will be required to retain pursuant to subsection 15(a)(2) above.

Section 16. Internet availability of information

Section 16 requires the Secretary to make available through DOE's Internet home page the abstracts relating to all research grants and awards make with funds authorized by this Act. Nothing in this section shall be construed to require or permit the release of any information prohibited by law or regulation from being released to the public.

Committee views

The Committee believes that by giving public access to information about how tax dollars are spent, it is acting as a responsible steward of taxpayer resources. Such information can also stimulate

additional public and private sector research by informing the research community.

Section 17. Moratorium on Foreign Visitors Program

Section 17 prohibits the Secretary of Energy from admitting to any classified facility or sensitive area of any DOE Laboratory an individual who is a citizen of a nation that is named on the DOE List of Sensitive Countries. The Secretary may waive the prohibition on a case-by-case basis if the Secretary determines that such access is necessary for the national security interests of the U.S., and, within 30 days after granting the waiver, submits a report justifying the waiver to various committees of Congress. Furthermore, the moratorium on a DOE-owned laboratory shall be lifted when the Secretary, in consultation with and with the concurrence of the Director of the Federal Bureau of Investigation (FBI), transmits to the Congress a report certifying that—(1) all of the applicable counterintelligence and safeguards and security measures contained in Presidential Decision Directive 61 have been fully implemented at the laboratory, and that adequate oversight and resources exist to ensure that they are properly followed; (2) all of the additional applicable counterintelligence and safeguards and security measures announced by the Secretary on March 17, 1999, and March 31, 1999, have been fully implemented at the laboratory, and that adequate oversight and resources exist to ensure that they are appropriately followed; and (3) all of the guidelines in February 1997 document entitled "Guidelines on Export Control and Nonproliferation," issued by the Nuclear Transfer and Supplier Policy Division of the Office of Arms Control and Nonproliferation of the Office of Nonproliferation and National Security of the Department are being followed with respect to all activities at the laboratory. This section also requires the Director of the FBI and the Secretary to transmit jointly to the committees of Congress an annual report, the first of which shall be transmitted not later than 90 days after the date of the enactment of this Act, on counterintelligence and safeguards and security activities at the DOE-owned laboratories, including facilities and areas at those laboratories at which unclassified work is carried out. The report shall include—(A) a description of the status of counterintelligence and safeguards and security at each of the DOE-owned laboratories; (B) a description of the status of the conditions for lifting the moratorium under subsection (c); and (C) a net assessment of the foreign visitors program at the DOE-owned laboratories, prepared by a panel of individuals with expertise in intelligence, counterintelligence, and nuclear weapons design matters.

Section 18. Technology transfer coordination

Section 18 requires that within 90 days after the date of the enactment of this Act, the Secretary shall ensure, for the DOE-owned laboratories carrying out programs under this Act: (1) consistency of technology transfer policies and procedures with respect to patenting, licensing, and commercialization; (2) the availability to aggrieved private sector entities on request of binding alternative dispute resolution, nonbinding alternative dispute resolution, mediation, negotiation between authorized representatives of the dis-

puting parties, or resolution by the Department's site contracting officer to resolve disputes regarding all technology transfer and intellectual property matters, with costs and damages to be provided for by the contractor to the extent that any such resolution attributes fault to the contractor; (3) annual reports to the Secretary, as part of the annual performance evaluation, on technology transfer and intellectual property successes, current technology transfer and intellectual property disputes involving the laboratory, and progress toward resolving those disputes; and (4) training to ensure that laboratory personnel responsible for patenting, licensing, and commercialization activities are knowledgeable of the appropriate legal, procedural, and ethical issues necessary to carry out those activities with the highest possible professional and ethical standards.

Section 19. Department of Energy regulations relating to the safeguarding and security of restricted data

Section 19 amends the Atomic Energy Act of 1954 (42 U.S.C. 2241 et seq.) by inserting a new section authorizing the assessment of civil penalties of not more than $100,000 per incidence for any person who has entered in a contract or agreement with the DOE, or a subcontract or subagreement thereto, and who violates (or whose employee violates) any applicable DOE rule, regulation, or order relating to the safeguarding or security of Restricted Data or other classified or sensitive information. This section also authorizes the Secretary to assess monetary penalties against DOE contractors for any violation by the contractor or contractor employees of any rule, regulation, or order relating to the safeguarding or security of Restricted Data or other classified or sensitive information.

Section 20. Whistleblower protection

Subsection 20(a) requires the Secretary of Energy to establish a whistleblower protection program to ensure that no DOE employee or DOE contractor employee may be discharged, demoted, or otherwise discriminated against as a reprisal for disclosing information to a person or entity referred to in subsection 20(b) information which the employee or contractor reasonably believes to provide direct and specific evidence of a violation of any Federal law or regulation; of gross mismanagement, gross waste of funds, or abuse of authority; or of a false statement to Congress on an issue of material fact.

Subsection 20(b) defines the person or entity referred to in subsection 20(a) to be: (1) a Member of Congress; (2) an employee of Congress who has an appropriate security clearance for access to the information; (3) the DOE Inspector General (IG); (4) the FBI; or (5) any other element of the Federal Government designated by the Secretary as authorized to receive information of the type disclosed.

Section 21. Investigation and remediation of alleged reprisals for disclosure of certain information to Congress

Subsection 21(a) provides that a DOE employee or DOE contractor employee who believes that they or any other such em-

ployee have been discharged, demoted, or otherwise discriminated against as a reprisal for disclosing information referred to in subsection 20(a) may submit a complaint relating to such action to the DOE IG.

Subsection 21(b)(1) requires the IG to review all complaints submitted to him pursuant to subsection 21(a) and to: (A) determine whether or not the complaint is frivolous; and (B) to conduct an investigation of the complaint if the IG determines the complaint is not frivolous. In addition, Subsection 21(b)(2) requires the IG to submit a report on each such investigation to: (A) the employee who submitted the complaint on which the investigation is based; (B) the contractor concerned, if any; and (C) the Secretary.

If the Secretary determines that an employee has been subjected to an adverse personnel action, then Subsection 21(c) requires the Secretary to: (A) in the case of a Department employee, take appropriate actions to abate the action; or (B) in the case of a contractor employee, order the contractor concerned to take appropriate actions to abate the action. If a contractor fails to comply with an order issued by the Secretary, the Secretary may file an action for enforcement of the order in the appropriate United States district court, which may grant appropriate relief, including injunctive relief and compensatory and exemplary damages.

Subsection 21(d) requires the IG, not later than 30 days after the commencement of each fiscal quarter, to submit to the Committee on Science and other relevant committees of the House of Representatives, and to the Committee on Energy and Natural Resources and other relevant committees of the Senate, a report on the investigations undertaken during the preceding fiscal quarter, including a summary of the results of such investigations. This report shall not identify or otherwise provide any information on a person submitting a complaint under this section without the consent of that person.

VIII. Cost Estimate

Rule XIII, clause 3(d)(2) of Rules of the House of Representatives requires that each report of a committee on a public bill or public joint resolution contain: (A) an estimate by the committee of the costs that would be incurred in carrying out the bill or joint resolution in the fiscal year in which it is reported, and in each of the five fiscal years following that fiscal year (or for the authorized duration of any program authorized by such bill or joint resolution, if less than five years); (B) a comparison of the estimate of costs described in subdivision (A) made by the committee with any estimate of such costs made by a Government agency and submitted to such committee; and (C) when practicable, a comparison of the total estimated funding level for the relevant programs with the appropriate levels under current law. However, House Rule XIII, clause 3(d)(3)(B) provides that this requirement does not apply when a cost estimate and comparison prepared by the Director of the Congressional Budget Office under section 402 of the Congressional Budget Act of 1974 has been included in the report pursuant to House Rule XIII, clause 3(c)(3). A cost estimate and comparison prepared by the Director of the Congressional Budget Office under section 402 of the Congressional Budget Act of 1974 has been time-

ly submitted to the Committee on Science prior to the filing of this report and is included in Section IX of this report pursuant to House Rule XIII, clause 3(c)(3).

Rule XIII, clause 3(c)(2) of the Rules of the House of Representatives requires that the report of a committee on a measure that has been approved by the committee providing new budget authority (other than continuing appropriations), new spending authority, or new credit authority, or changes in revenues or tax expenditures include the statement required by section 308(a) of the Congressional Budget Act of 1974, except that an estimate of new budget authority shall include, when practicable, a comparison of the total estimated funding level for the relevant programs to the appropriate levels under current law. H.R. 1656 does not contain any new budget authority, new spending authority, or new credit authority, or changes in revenues or tax expenditures. Assuming that the sums authorized under the bill are appropriated, H.R. 1656 does authorize additional discretionary spending, as described in the Congressional Budget Office report on the bill, which is contained in Section IX of this report.

IX. Congressional Budget Office Cost Estimate

Rule XIII, clause 3(c)(3) of the Rules of the House of Representatives requires that the report of a committee on a measure that has been approved by the committee include an estimate and comparison prepared by the Director of the Congressional Budget Office under section 402 of the Congressional Budget Act of 1974 if timely submitted to the committee before the filing of the report. The Committee on Science has received the following cost estimate for H.R. 1656 from the Director of the Congressional Budget Office:

U.S. Congress,
Congressional Budget Office,
Washington, DC, September 16, 1999.

Hon. F. James Sensenbrenner, Jr.,
Chairman, Committee on Science,
House of Representatives, Washington, DC.

Dear Mr. Chairman: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 1656, the Department of Energy Commercial Application of Energy Technology Authorization Act of 1999.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contacts are Kim Cawley and Cynthia Dudzinski.

Sincerely,

Barry B. Anderson
(For Dan L. Crippen, Director).

Enclosure.

H.R. 1656—Department of Energy Commercial Application of Energy Technology Authorization Act of 1999

Summary: H.R. 1656 would authorize appropriations for civilian research and development programs at the Department of Energy (DOE) for fiscal years 2000 and 2001, and would end DOE's au-

thority to regulate or enforce environmental safety, and health requirements at nonmilitary energy laboratories beginning on January 1, 2000. Assuming the appropriation of all amounts specifically authorized in the bill for research and development activities, CBO estimates that implementing H.R. 1656 would cost about $1.4 billion over the 2000–2004 period.

Additional civil penalties under current law could be collected as a result of implementing this bill, and new civil penalties that would be established by the legislation could also affect receipts; therefore, pay-as-you-go procedures would apply. However, CBO estimates any such collections would total less than $500,000 annually. H.R. 1656 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA) and would impose no significant costs on state, local, or tribal governments.

In addition to the research and development spending authorized by the bill, CBO estimates enactment of the bill would increase the need for appropriated funds at the Nuclear Regulatory Commission (NRC) and the Occupational Safety and Health Administration (OSHA) to pay for new efforts that would be necessary because the bill would end DOE's authority to regulate health and safety at its nonmilitary laboratories (this activity by DOE is known as self-regulation). While the cost of this provision of the bill is uncertain, and would depend on many future decisions made by DOE and these regulatory agencies, CBO estimates that ending self-regulation of health and safety at DOE nonmilitary laboratories would cost about $14 million annually over the 2000–2004 period. This estimate does not include the cost to implement corrective actions that are required at nonmilitary laboratories today because these facilities do not comply with DOE health and safety standards. In addition, this estimate assumes that NRC and OSHA regulation of nonmilitary laboratories will not reveal significant new corrective actions that must be undertaken, beyond those already known to DOE.

Estimated cost to the Federal Government: The estimated budgetary impact of H.R. 1656 is shown in the following table. The costs of this legislation fall within budget functions 270 (energy) and 550 (health).

	By fiscal year, in millions of dollars—				
	2000	2001	2002	2003	2004
SPENDING SUBJECT TO APPROPRIATION					
Specified Authorization Level	703	712	0	0	0
Estimated Outlays	481	696	223	13	3
Estimated Authorization Level	15	14	13	13	12
Estimated Outlays	13	14	13	13	13
Total Spending:.					
Authorization Level	718	726	13	13	12
Estimated Outlays	494	710	236	26	16

Basis of estimate: Most of H.R. 1656's budgetary impact would stem from its authorization of $1.4 billion over the next two years. CBO expects that implementing the bill would require additional appropriations averaging about $13 million a year. Enacting the

bill could also affect governmental receipts, but any such effects would not be significant.

Research and development spending

Section 3 would authorize the appropriation of $703 million in 2000 and $712 million in 2001 for the commercial application of energy technology and related civilian energy and scientific programs, projects, and activities of the DOE. For purposes of this estimate, CBO assumes the full amounts authorized will be appropriated each year and that spending will occur at historical rates for these programs and activities.

Costs of external regulation

Section 17 would end DOE's authority to regulate or enforce environmental, safety, and health requirements at any federally owned or operated nonmilitary energy laboratory after January 1, 2000. The bill does not define the term "nonmilitary energy laboratory;" but for the purposes of this estimate, CBO assumes that the bill intends to include all DOE laboratories except for Sandia, Los Alamos, and Lawrence Livermore National Laboratories. In addition, based on information from DOE, we assume that the Environmental Protection Agency, and state and local governments are already the primary enforcers of environmental laws at DOE laboratories. Over the next five years, CBO estimates that moving to external regulation of DOE nonmilitary laboratories would require additional applications averaging about $14 million annually for the NRC and OSHA, and that this sum would not initially be offset by reduced expenditures at DOE.

Department of Energy. Based on information from DOE, CBO estimates that the DOE laboratories received appropriations of about $3.2 billion in 1999, and that $285 million (or 9 percent) of these funds were allocated to ongoing health and safety activities. In 1996, DOE compared its own health and safety spending to regulatory compliance costs at nuclear power reactors and other private-sector industries licensed by the NRC and found that such costs usually accounted for 10 percent or less of facility operating costs. This comparison suggests there is no compelling basis for estimating significantly higher (or lower) compliance costs at DOE nonmilitary facilities under external regulation. Furthermore, any future savings in health and safety oversight costs to DOE as a result of enacting this bill could be applied to the existing backlog of corrective actions needed at the nonmilitary laboratories.

Many DOE facilities do not comply with the department's current health and safety standards, in most cases corrective actions have not been taken because sufficient funds have not been allocated to these projects. DOE estimates that full funding of identified corrective actions necessary at its nonmilitary laboratories would total about $0.25 billion over the next five years. DOE, NRC, and OSHA have conducted limited pilot studies of external regulation at DOE laboratories and some former DOE facilities are now regulated by NRC and OSHA. Based on these experiences, CBO assumes that external regulation would not significantly increase the cost of needed health and safety corrective actions at nonmilitary DOE facilities, nor change the timing of these costs in the short term. We

assume DOE will be able to negotiate compliance agreements with NRC and OSHA for implementing corrective actions at facilities that do not comply with agency standards. If compliance agreements between these agencies cannot be reached, it is possible that the imposition of external regulation at DOE facilities could change the future funding profile for identified corrective action projects by accelerating the timing of such spending by DOE or by revealing the need for additional spending. CBO has no information to predict whether or not additional funds for corrective actions would be required as a result of enacting this bill, but any increase in such spending would be subject to the availability of appropriated funds.

Nuclear Regulatory Commission and Occupation Safety and Health Administration. Over the next five years, CBO estimates that moving to external regulation of DOE nonmilitary laboratories would require about $13 million annually of additional appropriated funds for the NRC and OSHA.

Based on information from the NRC and DOE, we estimate NRC would incur additional oversight costs at DOE nonmilitary laboratories of about $10 million annually. The DOE facilities that were selected for pilot studies of NRC regulation are not considered representative of all DOE nonmilitary laboratories. NRC estimated that its annual oversight costs for the pilot studies of external regulation at three DOE facilities ranged from less than $100,000 to nearly $400,000. NRC does not have experience with regulating particle accelerators which are found at several DOE laboratories and would require significantly more resources to oversee. We estimate that some of the nonmilitary laboratories with accelerators, nuclear fuel storage facilities, or areas that handle transuranic materials could cost the NRC between $1 million and $2 million annually to regulate.

CBO estimates that transferring the responsibility of enforcing safety and health regulations at DOE nonmilitary laboratories to OSHA would cost $5 million in 2000, and an average of about $3 million per year thereafter. This estimate is based on information from OSHA concerning the cost to the agency of transferring enforcement of health and safety laws for all DOE facilities to OSHA. We estimate that during the first two years following enactment of H.R. 1656 OSHA would hire additional inspectors and health physicists, purchase radiation monitoring equipment, and perform an initial inspection and evaluation at each nonmilitary laboratory. Following these initial inspections, OSHA would continue to monitor the DOE labs to verify that identified hazards are corrected. OSHA anticipates that it would implement an enhanced compliance program at the DOE labs and could reinspect most of these facilities once every two years initially, then gradually decrease to an inspection rate of once every four years. For purposes of comparison, high hazard industrials in the private sector are inspected about once every six years.

Civil penalties

Section 19 would amend the Atomic Energy Act to establish a monetary penalty for violations of DOE regulations concerning the security of classified or sensitive information. Civil penalties are recorded in the budget as governmental receipts, thus this provision

could result in additional collections; however, CBO estimates any amounts collected under this provision would not be significant.

Under H.R. 1656, private contractors who operate DOE's non-military laboratories would be liable for any enforcement penalties imposed by OSHA. The bill would give the NRC the option to issue licenses (and impose penalties) under the Atomic Energy Act to either DOE, or the private operating contractors who operate the laboratories, or both. Any penalties that would be collected from private contractors would increase governmental revenues, but CBO estimates additional collections would be less than $500,000 annually.

Pay-as-you-go considerations: The Balanced Budget and Emergency Deficit Control Act sets up pay-as-you-go procedures for legislation affecting direct spending or receipts. Imposing the new civil penalties contained in H.R. 1656, and subjecting private operating contractors to penalties under the Atomic Energy Act and the Occupational Safety and Health Act could result in an increase in governmental receipts, but CBO estimates that any such changes would be less than $500,000 a year.

Intergovernmental and private-sector impact: H.R. 1656 contains no intergovernmental or private-sector mandates as defined in UMRA and would impose no costs on state, local, or tribal governments. Some of the funds authorized in the bill would be used for research at academic institutions, including public universities.

Estimate prepared by: Kim Cawley and Cynthia Dudzinski.

Estimate approved by: Peter M. Fontaine, Deputy Assistant Director for Budget Analysis.

X. Compliance With Public Law 104–4

H.R. 1656 contains no unfunded mandates.

XI. Committee Oversight Findings and Recommendations

Rule XIII, clause 3(c)(1) of the Rules of the House of Representatives requires that the report of a committee on a measure that has been approved by the committee include oversight findings and recommendations under clause 2(b)(1) of rule X. The Committee of Science's oversight findings and recommendations are reflected in the body of this report.

XII. Oversight Findings and Recommendations by the Committee on Government Reform

Rule XIII, clause 3(c)(4) of the Rules of the House of Representatives requires that the report of a committee on a measure that has been approved by the committee include a summary of oversight findings and recommendations made by the Committee on Government Reform under clause 4(c)(2) of the rule X if such findings and recommendations have been submitted to the reporting committee in time to allow it to consider such findings and recommendations during its deliberations on the measure. The Committee on Science has received no such findings or recommendations from the Committee on Government Reform.

XIII. CONSTITUTIONAL AUTHORITY STATEMENT

Rule XIII, clause 3(d)(1) of the Rules of the House of Representatives requires that each report of a committee on a public bill or public joint resolution contain a statement citing the specific powers granted to the Congress in the Constitution to enact the law proposed by the bill or joint resolution. Article I, section 8 of the Constitution of the United States grants Congress the authority to enact H.R. 1656.

XIV. FEDERAL ADVISORY COMMITTEE STATEMENT

H.R. 1656 does not establish or authorize the establishment of any advisory committee.

XV. CONGRESSIONAL ACCOUNTABILITY ACT

The Committee finds that H.R. 1656 does not relate to the terms and conditions of employment or access to public services or accommodations within the meaning of section 102(b)(3) of the Congressional Accountability Act (Public Law 104–1).

XVI. CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

ATOMIC ENERGY ACT OF 1954

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TITLE I—ATOMIC ENERGY

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CHAPTER 18—ENFORCEMENT

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SEC. 234. CIVIL MONETARY PENALTIES FOR VIOLATIONS OF LICENSING REQUIREMENTS.—
a. * * *

SEC. 234A. CIVIL MONETARY PENALTIES FOR VIOLATIONS OF DEPARTMENT OF ENERGY *SAFETY* REGULATIONS.—
a. * * *

* * * * * * *

a. Any person who has entered into a contract or agreement with the Department of Energy, or a subcontract or subagreement thereto,

and who violates (or whose employee violates) any applicable rule, regulation, or order prescribed or otherwise issued by the Secretary pursuant to this Act relating to the safeguarding or security of Restricted Data or other classified or sensitive information shall be subject to a civil penalty of not to exceed $100,000 for each such violation.

b. The Secretary shall include in each contract with a contractor of the Department provisions which provide an appropriate reduction in the fees or amounts paid to the contractor under the contract in the event of a violation by the contractor or contractor employee of any rule, regulation, or order relating to the safeguarding or security of Restricted Data or other classified or sensitive information. The provisions shall specify various degrees of violations and the amount of the reduction attributable to each degree of violation.

c. The powers and limitations applicable to the assessment of civil penalties under section 234A, except for subsection d. of that section, shall apply to the assessment of civil penalties under this section.

* * * * * * *

XVII. Committee Recommendations

On May 26, 1999, a quorum being present, the Committee favorably reported H.R. 1656, the Department of Energy Commercial Application of Energy Technology Authorization Act of 1999, as amended, by a voice vote, and recommended its enactment.

XVIII. Proceedings of Committee on Science Markup

MARKUP OF: H.R. 1656, DEPARTMENT OF ENERGY COMMERCIAL APPLICATION OF ENERGY TECHNOLOGY AUTHORIZATION ACT OF 1999

WEDNESDAY, MAY 26, 1999

House of Representatives,
Committee on Science,
Washington, DC.

The committee met, pursuant to notice, at 3:05 p.m., in room 2318, Rayburn House Office Building, Hon. F. James Sensenbrenner, Jr. (chairman of the committee) presiding.

Chairman Sensenbrenner. The next bill up is H.R. 1656, the Department of Energy Commercial Application of Energy Technology Authorization Act of 1999. Without objection, the Chairman's opening statement will appear in the record at this point.

[The statement of Chairman Sensenbrenner follows:]

Opening Statement of Chairman F. James Sensenbrenner, Jr., Committee on Science

H.R. 1656 authorizes $605.0 million for fiscal year (FY) 2000 and $608.2 million for FY 2001 for Department of Energy (DOE) Energy Supply, Non-Defense Environmental Management, Fossil Energy R&D and Energy Conservation R&D programs. Highlights of the bill's authorizations for fiscal years 2000 and 2001 include:

• *Nuclear Energy*—H.R. 1656 maintains a strong commitment to the Nation's Nuclear Energy Program. The bill recommends $177.0 million in FY 2000 for Nuclear Energy—an increase of $5.1 million, or 3.0 percent above the amount appropriated for FY 1999 and $20.0 million above the Administration's request; and recommends $174.1 million for FY 2001—a decrease of $2.9 million, or 1.7 percent below the amount recommended for FY 2000.

• *Environment, Safety and Health (ES&H)—Non-Defense*—H.R. 1656 supports DOE's efforts to protect its workers, the public, and the environment. The bill recommends $50.75 million in FY 2000 for ES&H—an increase of $3.3 million, or 7.0 percent above the amount appropriated for FY 1999; and recommends $51.7 million for FY 2001—an increase of $1.0 million, or 1.9 percent above the amount recommended for FY 2000.

• *Non-Defense Environmental Management*—H.R. 1656 fully supports DOE's request to accelerate cleanup of legacy waste sites. The bill recommends $330.9 million—the Administration's request in FY 2000 for Non-Defense Environmental Management; and recommends $340.9 million for FY 2001—an increase of $9.9 million, or 3.0 percent above the amount recommended for FY 2000.

• *Fossil Energy Environmental Restoration*—H.R. 1656 also fully supports DOE's request to accelerate cleanup of old fossil energy sites. The bill recommends $10 million—the Administration's request in FY 2000 for Fossil Energy Environmental Restoration; and recommends $10.3 million for FY 2001—an increase of $0.9 million, or 3.0 percent above the amount recommended for FY 2000.

• *Energy Conservation R&D*—H.R. 1656 also maintains a strong commitment to energy efficiency, which not only saves energy, but also benefits the environment. The bill recommends $26.2 million in FY 2000 for Energy Conservation R&D programs—an increase of $3.2 million, or 14.1 percent above the amount appropriated for FY 1999; and recommends $27.0 million for FY 2001—an increase of $0.5 million, or 3.0 percent above the amount recommended for FY 2000.

Other provisions of the bill include the following:

• Prohibits the use of Clean Coal Technology Reserve funds to initiate a clean coal technology energy demonstration project based outside the U.S.;

• Cuts wasteful travel by DOE and its contractors by more than 55 percent from current levels;

• Prohibits noncompetitive awards of grants, contracts, subcontracts, or any other forms of financial assistance to trade associations;

• Limits demonstrations to technologies and processes that are substantially new, and not for incremental improvements for technologies or processes that exist in the marketplace; and

• Ends DOE's self-regulation of its civilian energy and scientific laboratories and transfers these responsibilities to the Nuclear Regulatory Commission and to the Occupational Safety and Health Administration.

Chairman SENSENBRENNER. Does the gentleman from Illinois wish to make an opening statement?

Mr. COSTELLO. Mr. Chairman, I will insert my statement in the record so we can move onto amendments.

Chairman SENSENBRENNER. Without objection. Also without objection, all members may insert opening statements at this point in the record.

[The information follows:]

OPENING STATEMENT OF JERRY F. COSTELLO

Thank you Mr. Chairman. Again, I'd like to extend my thanks to you and your staff for your willingness to discuss our concerns and address so many of them before today's mark up.

The only remaining major concern I have with this bill is the failure to include the amount requested by the President for the building and lighting standards programs. These programs help to save consumers money by facilitating the introduction of energy efficient technologies into industries that have not used them in the past.

I do however support a lot of what is contained in this bill, and am pleased that it includes language to externally regulate DOE energy research labs. In recent weeks, we have seen that DOE seems to have had a very difficult time managing itself with respect to some of our nation's most vital secrets. I think that requiring the Nuclear Regulatory Commission and OSHA to regulate nuclear and worker safety issues at DOE facilities makes a tremendous amount of sense.

Thank you very much, Mr. Chairman, and I look forward to working with you to get the provisions in this bill enacted.

STATEMENT OF CHAIRMAN KEN CALVERT, ENERGY AND ENVIRONMENT SUBCOMMITTEE

Thank you Mr. Chairman. The business before the Committee is the mark up of H.R. 1656, which authorizes funding for the commercial application of energy technology and related civilian energy and scientific programs, projects and activities of the Department of Energy (DOE) for fiscal years 2000 and 2001.

HR 1656 authorizes funding of $605 million for FY 2000, a 1.7 percent increase over the Administration request, and $608.2 million for FY 2001. These totals include an increase of $21 million, or 9.7 percent over the Administration's request, for Energy Supply research. Non-Defense Environmental Management and Fossil Energy R&D are funded at the Administration's requested levels. And Energy Conservation R&D is increased by $3.2 million, or 14.1 percent from last year's appropriated levels.

I believe that these authorization levels responsibly fund these DOE programs. Due to a very crowded schedule today I will conclude my remarks at this point by asking for your support on this bill.

Mr. Chairman, I thank you for your time.

Chairman SENSENBRENNER. Without objection, the bill is read a first time and open for amendment at any point.

[The information follows:]

H.R. 1656

A bill to authorize appropriations for fiscal years 2000 and 2001 for the commercial application of energy technology and related civilian energy and scientific programs, projects, and activities of the Department of Energy, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Department of Energy Commercial Application of Energy Technology Authorization Act of 1999".

SEC. 2. DEFINITIONS.

For the purposes of this Act—

(1) the term "Department" means the Department of Energy; and

(2) the term "Secretary" means the Secretary of Energy.

SEC. 3. AUTHORIZATION OF APPROPRIATIONS.

(a) ENERGY SUPPLY.—There are authorized to be appropriated to the Secretary for Energy Supply commercial application of energy technology and related civilian energy and scientific research, development, and demonstration operation and maintenance and construction programs, projects, and activities for which specific sums are not authorized under other authority of law $237,850,000 for fiscal year 2000 and $235,921,000 for fiscal year 2001, to remain available through the end of fiscal year 2002, of which—

(1) $177,000,000 for fiscal year 2000 and $174,070,000 for fiscal year 2001 shall be for Nuclear Energy, including—

(A) $85,000,000 for fiscal year 2000 and $87,550,000 for fiscal year 2001 for Termination Costs;

(B) $30,000,000 for fiscal year 2000 and $30,900,000 for fiscal year 2001 for the Fast Flux Test Facility;

(C) $13,000,000 for fiscal year 2000 and $13,390,000 for fiscal year 2001 for Isotope Support;

(D) $8,000,000 for fiscal year 2000 for completion of Project 98–E–201, Isotope Production Facility, Los Alamos National Laboratory; and

(E) $41,000,000 for fiscal year 2000 and $42,230,000 for fiscal year 2001 for Uranium Programs;

(2) $50,750,000 for fiscal year 2000 and $51,703,000 for fiscal year 2001 shall be for Environment, Safety, and Health;

(3) $9,100,000 for fiscal year 2000 and $9,148,000 for fiscal year 2001 shall be for Technical Information Management; and

(4) $1,000,000 for fiscal year 2000 and $1,000,000 for fiscal year 2001 shall be for transfer to the Occupational Health and Safety Administration for external regulation of all federally owned or operated nonmilitary energy laboratories under section 15.

(b) NON-DEFENSE ENVIRONMENTAL MANAGEMENT.—There are authorized to be appropriated to the Secretary for Non-Defense Environmental Management commercial application of energy technology and related civilian energy and scientific research, development, and demonstration operation and maintenance programs, projects, and activities for which specific sums are not authorized under other authority of law $330,934,000 for fiscal year 2000 and $340,862,000 for fiscal year 2001, to remain available through the end of fiscal year 2002, of which—

(1) $211,146,000 for fiscal year 2000 and $217,480,000 for fiscal year 2001 shall be for Site Closure;

(2) $100,866,000 for fiscal year 2000 and $103,892,000 for fiscal year 2001 shall be for the Site/Project Completion; and

(3) $18,922,000 for fiscal year 2000 and $19,490,000 for fiscal year 2001 shall be for post 2006 Completion.

(c) FOSSIL ENERGY RESEARCH AND DEVELOPMENT.—There are authorized to be appropriated to the Secretary for Fossil Energy Research and Development Environmental Restoration commercial application of energy technology and related civilian energy and scientific research, development, and demonstration operation and maintenance programs, projects, and activities for which specific sums are not authorized under other authority of law $10,000,000 for fiscal year 2000 and $10,300,000 for fiscal year 2001, to remain available through the end of fiscal year 2002.

(d) ENERGY CONSERVATION RESEARCH AND DEVELOPMENT.—There are authorized to be appropriated to the Secretary for Energy Conservation Research and Development commercial application of energy technology and related civilian energy and scientific research, development, and demonstration operation and maintenance programs, projects, and activities for which specific sums are not authorized under other authority of law $26,227,000 for fiscal year 2000 and $27,014,000 for fiscal year 2001, to remain available through the end of fiscal year 2002, of which—

(1) $10,700,000 for fiscal year 2000 and $11,021,000 for fiscal year 2001 shall be for Clean Cities;

(2) $9,138,000 for fiscal year 2000 and $9,412,000 for fiscal year 2001 shall be for Building Standards and Guidelines; and

(3) $6,389,000 for fiscal year 2000 and $6,581,000 for fiscal year 2001 shall be for Lighting and Appliance Standards.

SEC. 4. NOTICE.

(a) REPROGRAMMING.—The Secretary may use for any authorized civilian energy or scientific research, development, and demonstration and commercial application of energy technology programs, projects, and activities of the Department—

(1) up to the lesser of $250,000 or 5 percent of the total funding for a fiscal year of another such program, project, or activity of the Department; or

(2) after the expiration of 60 days after transmitting to the Committee on Science and the Committee on Appropriations of the House of Representatives, and to the Committee on Energy and Natural Resources and the Committee on Appropriations of the Senate, a report described in subsection (b), up to 25 percent of the total funding for a fiscal year of another such program, project, or activity of the Department.

(b) REPORT.—(1) The report referred to in subsection (a)(2) is a report containing a full and complete statement of the action proposed to be taken and the facts and circumstances relied upon in support of such proposed action.

(2) In the computation of the 60-day period under subsection (a)(2), there shall be excluded any day on which either House of Congress is not in session because of an adjournment of more than 3 days to a day certain.

(c) LIMITATIONS.—In no event may funds be used pursuant to subsection (a) for a civilian energy or scientific research, development, and demonstration or commercial application of energy technology program, project, or activity for which funding has been requested to the Congress but which has not been funded by the Congress.

(d) NOTICE OF REORGANIZATION.—The Secretary shall provide notice to the Committee on Science and the Committee on Appropriations of the House of Representatives, and to the Committee on Energy and Natural Resources and the Committee on Appropriations of the Senate, not later than 15 days before any major reorganization of any civilian energy or scientific research, development, and demonstration or commercial application of energy technology program, project, or activity of the Department.

(e) COPY OF REPORTS.—The Secretary shall provide copies to the Committee on Science and the Committee on Appropriations of the House of Representatives, and to the Committee on Energy and Natural Resources and the Committee on Appropriations of the Senate, of any report relating to the civilian energy or scientific research, development, and demonstration or commercial application of energy technology activities of the Department prepared at the direction of any committee of Congress.

SEC. 5. LIMITATION ON DEMONSTRATIONS.

The Department of Energy shall provide funding for civilian energy or scientific or commercial application of energy technology demonstration programs, projects, and activities only for technologies or processes that are substantially new, and not for incremental improvements to technologies or processes that exist in the marketplace.

SEC. 6. LIMITS ON GENERAL PLANT PROJECTS.

If, at any time during the construction of a civilian energy or scientific research, development, and demonstration or commercial application of energy technology project of the Department for which no specific funding level is provided by law, the estimated cost (including any revision thereof) of the project exceeds $500,000, the Secretary may not continue such construction unless the Secretary has furnished a complete report to the Committee on Science and the Committee on Appropriations of the House of Representatives, and to the Committee on Energy and Natural Resources and the Committee on Appropriations of the Senate, explaining the project and the reasons for the estimate or revision.

SEC. 7. LIMITS ON CONSTRUCTION PROJECTS.

(a) LIMITATION.—Except as provided in subsection (b), construction on a civilian energy or scientific research, development, and demonstration or commercial application of energy technology project of the Department for which funding has been specifically provided by law may not be started, and additional obligations may not be incurred in connection with the project above the authorized funding amount, whenever the current estimated cost of the construction project exceeds by more than 5 percent the higher of—

(1) the amount authorized for the project, if the entire project has been funded by the Congress; or

(2) the amount of the total estimated cost for the project as shown in the most recent budget justification data submitted to Congress.

(b) NOTICE.—An action described in subsection (a) may be taken if—

(1) the Secretary has submitted to the Committee on Science and the Committee on Appropriations of the House of Representatives, and to the Committee on Energy and Natural Resources and the Committee on Appropriations of the Senate, a report on the proposed actions and the circumstances making such actions necessary; and

(2) a period of 60 days has elapsed after the date on which the report is received by the committees.

(c) EXCLUSION.—In the computation of the 60-day period described in subsection (b)(2), there shall be excluded any day on which either House of Congress is not in session because of an adjournment of more than 3 days to a day certain.

SEC. 8. AUTHORITY FOR CONCEPTUAL AND CONSTRUCTION DESIGN.

(a) REQUIREMENT FOR CONCEPTUAL DESIGN.—(1) Subject to paragraph (2) and except as provided in paragraph (3), before submitting to Congress a request for funds for a construction project that is in support of a civilian energy or scientific research, development, and demonstration or commercial application of energy technology program, project, or activity of the Department, the Secretary shall complete a conceptual design for that project.

(2) If the estimated cost of completing a conceptual design for a civilian energy or scientific research, development, and demonstration or commercial application of energy technology construction project exceeds $500,000, the Secretary shall submit to Congress a request for funds for the conceptual design before submitting a request for funds for the construction project.

(3) The requirement in paragraph (1) does not apply to a request for funds for a construction project, the total estimated cost of which is less than $1,000,000.

(b) AUTHORITY FOR CONSTRUCTION DESIGN.—(1) The Secretary may carry out construction design (including architectural and engineering services) in connection with any proposed construction project that is in support of a civilian energy or scientific research, development, and demonstration or commercial application of en-

ergy technology program of the Department if the total estimated cost for such design does not exceed $100,000.

(2) If the total estimated cost for construction design in connection with any construction project described in paragraph (1) exceeds $100,000, funds for such design must be specifically authorized by law.

SEC. 9. LIMITS ON USE OF FUNDS.

(a) CLEAN COAL TECHNOLOGY RESERVE.—No funds in the Clean Coal Technology Reserve may be used to initiate or carry out a clean coal technology energy demonstration project based outside the United States.

(b) TRAVEL.—Not more than 1 percent of the funds authorized by this Act may be used either directly or indirectly to fund travel costs of the Department or travel costs for persons awarded grants, contracts, subcontracts, or any other form of financial assistance by the Department. As part of the Department's annual budget request submission to the Congress, the Secretary shall submit a report to the Committee on Science and the Committee on Appropriations of the House of Representatives, and to the Committee on Energy and Natural Resources and the Committee on Appropriations of the Senate, that identifies—

(1) the estimated amount of travel costs by the Department and for persons awarded grants, contracts, subcontracts, or any other form of financial assistance by the Department for the fiscal year of such budget submission, as well as for the 2 previous fiscal years;

(2) the major purposes for such travel; and

(3) the sources of funds for such travel.

(c) TRADE ASSOCIATIONS.—No funds authorized by this Act may be used either directly or indirectly to fund a grant, contract, subcontract, or any other form of financial assistance awarded by the Department to a trade association on a noncompetitive basis. As part of the Department's annual budget request submission to the Congress, the Secretary shall submit a report to the Committee on Science and the Committee on Appropriations of the House of Representatives, and to the Committee on Energy and Natural Resources and the Committee on Appropriations of the Senate, that identifies—

(1) the estimated amount of funds provided by the Department to trade associations, by trade association, for the fiscal year of such budget submission, as well as for the 2 previous fiscal years;

(2) the services either provided or to be provided by each such trade association; and

(3) the sources of funds for services provided by each such trade association.

SEC. 10. MANAGEMENT AND OPERATING CONTRACTS.

(a) COMPETITIVE PROCEDURE REQUIREMENT.—None of the funds authorized to be appropriated by this Act or any prior Act may be used to award a management and operating contract for a federally owned or operated nonmilitary energy laboratory of the Department unless such contract is awarded using competitive procedures or the Secretary grants, on a case-by-case basis, a waiver to allow for such a deviation. The Secretary may not delegate the authority to grant such a waiver.

(b) CONGRESSIONAL NOTICE.—At least 60 days before a contract award, amendment, or modification for which the Secretary intends to grant such a waiver, the Secretary shall submit to the Committee on Science and the Committee on Appropriations of the House of Representatives, and to the Committee on Energy and Natural Resources and the Committee on Appropriations of the Senate, a report notifying the committees of the waiver and setting forth the reasons for the waiver.

SEC. 11. FEDERAL ACQUISITION REGULATION.

(a) REQUIREMENT.—None of the funds authorized to be appropriated by this Act or any prior Act for any commercial application of energy technology or civilian energy or scientific research, development, and demonstration or commercial application of energy technology activities may be used to award, amend, or modify a contract of the Department in a manner that deviates from the Federal Acquisition Regulation, unless the Secretary grants, on a case-by-case basis, a waiver to allow for such a deviation. The Secretary may not delegate the authority to grant such a waiver.

(b) CONGRESSIONAL NOTICE.—At least 60 days before a contract award, amendment, or modification for which the Secretary intends to grant such a waiver, the Secretary shall submit to the Committee on Science and the Committee on Appropriations of the House of Representatives, and to the Committee on Energy and Natural Resources and the Committee on Appropriations of the Senate, a report notifying the committees of the waiver and setting forth the reasons for the waiver.

SEC. 12. REQUESTS FOR PROPOSALS.

None of the funds authorized to be appropriated by this Act or any prior Act may be used by the Department to prepare or initiate Requests for Proposals (RFPs) for a civilian energy or scientific research, development, and demonstration or commercial application of energy technology program, project, or activity if the program, project, or activity has not been specifically authorized by Congress.

SEC. 13. PRODUCTION OR PROVISION OF ARTICLES OR SERVICES.

(a) RESTRICTION.—Except as provided in subsection (b), none of the funds authorized to be appropriated by this Act or any prior Act may be used by any civilian energy or scientific research, development, and demonstration or commercial application of energy technology program, project, or activity of the Department to produce or provide articles or services for the purpose of selling the articles or services to a person outside the Federal Government, unless the Secretary determines that the articles or services are not available from a commercial source in the United States.

(b) EXCEPTION.—Subsection (a) does not apply to the transmission and sale of electricity by any Federal power marketing administration.

SEC. 14. ELIGIBILITY FOR AWARDS.

(a) IN GENERAL.—The Secretary shall exclude from consideration for grant agreements for civilian energy or scientific research, development, and demonstration or commercial application of energy technology activities made by the Department after fiscal year 1999 any person who received funds, other than those described in subsection (b), appropriated for a fiscal year after fiscal year 1999, under a grant agreement from any Federal funding source for a program, project, or activity that was not subjected to a competitive, merit-based award process, except as specifically authorized by this Act. Any exclusion from consideration pursuant to this section shall be effective for a period of 5 years after the person receives such Federal funds.

(b) EXCEPTION.—Subsection (a) shall not apply to the receipt of Federal funds by a person due to the membership of that person in a class specified by law for which assistance is awarded to members of the class according to a formula provided by law.

(c) DEFINITION.—For purposes of this section, the term "grant agreement" means a legal instrument whose principal purpose is to transfer a thing of value to the recipient to carry out a public purpose of support or stimulation authorized by a law of the United States, and does not include the acquisition (by purchase, lease, or barter) of property or services for the direct benefit or use of the United States Government. Such term does not include a cooperative agreement (as such term is used in section 6305 of title 31, United States Code) or a cooperative research and development agreement (as such term is defined in section 12(d)(1) of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3710a(d)(1))).

SEC. 15. EXTERNAL REGULATION.

(a) AUTHORITY.—

(1) ELIMINATION OF DEPARTMENT OF ENERGY AUTHORITY.—Except as provided in paragraph (2), effective January 1, 2000, the Department shall have no regulatory or enforcement authority, through rules, regulations, orders, and standards, or reporting requirements, with respect to Federal, State, and local environmental, safety, and health requirements at any federally owned or operated nonmilitary energy laboratory.

(2) EXCEPTION.—Notwithstanding paragraph (1), the Department shall retain regulatory or enforcement authority described in paragraph (1) at any federally owned or operated nonmilitary energy laboratory to the extent that no other Federal, State, or local governmental agency has such regulatory or enforcement authority.

(b) NUCLEAR REGULATORY COMMISSION AUTHORITY.—

(1) ENFORCEMENT RESPONSIBILITIES.—Effective January 1, 2000, the Nuclear Regulatory Commission shall assume the regulatory and enforcement responsibilities of the Department under the Atomic Energy Act of 1954 with regard to federally owned or operated nonmilitary energy laboratories, including such responsibilities with respect to accelerator-produced radioactive material and ionizing radiation generating machine.

(2) LICENSED ENTITY.—For the purposes of carrying out at federally owned or operated nonmilitary energy laboratories regulatory and enforcement responsibilities described in paragraph (1), the Nuclear Regulatory Commission may regulate and license or provide certification for the Department, the Department's contractor, or both.

(3) DECOMMISSIONING.—A contractor operating a federally owned nonmilitary energy laboratory shall not be responsible for the costs of decommissioning that facility. No enforcement action may be taken against such contractor for any violation of Nuclear Regulatory Commission decommissioning requirements, if such violation is the result of a failure of the Department to authorize or fund decommissioning activities. The Nuclear Regulatory Commission and the Department shall, not later than July 1, 2000, enter into a memorandum of understanding establishing decommissioning procedures and requirements for federally owned or operated nonmilitary energy laboratories.

(c) OCCUPATIONAL SAFETY AND HEALTH.—

(1) OSHA JURISDICTION.—Notwithstanding any other provision of law, effective January 1, 2000, the Occupational Safety and Health Administration shall assume the regulatory and enforcement responsibilities of the Department relating to matters covered by the Occupational Safety and Health Act of 1970 with regard to all federally owned or operated nonmilitary energy laboratories. The Department's contractor or contractors operating those laboratories shall be considered employers for purposes of the Occupational Safety and Health Act of 1970.

(2) APPLICABILITY.—Section 4(b)(1) of the Occupational Safety and Health Act of 1970 (29 U.S.C. 653(b)(1)) does not apply with respect to the Department's regulation, or the Nuclear Regulatory Commission's regulation, of federally owned or operated nonmilitary energy laboratories.

(3) RADIATION REGULATIONS.—With respect to federally owned or operated nonmilitary energy laboratories, the Secretary of Labor may enforce the regulations contained in part 20 of title 10 of the Code of Federal Regulations, relating to Protection from Radiation, to the same extent as regulations issued under section 6(b) of the Occupational Safety and Health Act of 1970 (29 U.S.C. 655(b)).

(4) MEMORANDUM OF UNDERSTANDING.—The Nuclear Regulatory Commission and the Occupational Safety and Health Administration shall, within 90 days after the date of the enactment of this Act, enter into a memorandum of understanding to govern the exercise of their respective authorities over occupational safety and health hazards at federally owned or operated nonmilitary energy laboratories.

(d) TRANSFER OF FUNDS.—For the purposes of carrying out this section, and for conducting pilot programs and other activities necessary to prepare for and effect the transition of regulatory and enforcement responsibilities for federally owned or operated nonmilitary energy laboratories from the Department, the Secretary shall transfer $1,000,000 from the appropriation made pursuant to section 3(a)(4) to the Occupational Safety and Health Administration.

(e) CIVIL PENALTIES.—The Department's contractor operating a federally owned or operated nonmilitary energy laboratory shall not be liable for civil penalties under the Atomic Energy Act of 1954 or the Occupational Safety and Health Act of 1970 for any actions taken before October 1, 2000, pursuant to the transfer of regulatory and enforcement responsibilities required by this section.

(f) INDEMNIFICATION.—The Secretary shall continue to indemnify federally owned or operated nonmilitary energy laboratories in accordance with the provisions of section 170d. of the Atomic Energy Act of 1954.

(g) DEPARTMENT OF ENERGY REPORTING REQUIREMENT.—By October 31, 1999, the Secretary shall transmit to the Committee on Science and the Committee on Appropriations of the House of Representatives, and the Committee on Energy and Natural Resources and the Committee on Appropriations of the Senate, a plan for the termination of the Department's regulatory and enforcement responsibilities for federally owned or operated nonmilitary energy laboratories required by this section. The report shall include—

(1) a detailed transition plan, drafted in coordination with the Nuclear Regulatory Commission and the Occupational Safety and Health Administration, giving the schedule for termination of self-regulation authority as outlined in subsection (a), including the activities to be coordinated with the Nuclear Regulatory Commission and the Occupational Safety and Health Administration;

(2) a description of any issues remaining to be resolved with the Nuclear Regulatory Commission, the Occupational Safety and Health Administration, or other external regulators, and a timetable for resolving such issues before January 1, 2000;

(3) an estimate of—

(A) the annual cost of administering and implementing self-regulation of environmental, safety, and health activities at federally owned or operated nonmilitary energy laboratories;

(B) the number of Federal and contractor employees administering and implementing such self-regulation;

(C) the cost of external regulation based on the pilot project of simulated Nuclear Regulatory Commission regulation which has already been conducted; and

(D) the extent and schedule by which the Department and laboratory staffs will be reduced as a result of implementation of this section; and

(4) a description of regulatory or enforcement authorities the Department determines it will be required to retain pursuant to subsection (a)(2).

Chairman SENSENBRENNER. The first amendment on the roster is by the gentleman from California, Mr. Calvert, and the gentleman from Illinois, Mr. Costello.

For what purpose does the gentleman from Illinois seek—or the gentleman from California seek recognition?

Mr. CALVERT. Mr. Chairman, I have an amendment at the desk.

Chairman SENSENBRENNER. The clerk will report the amendment.

The CLERK. Amendment to H.R. 1656 offered by Mr. Calvert and Mr. Costello.

Chairman SENSENBRENNER. Without objection, the amendment is considered as read.

[The information follows:]

AMENDMENT TO H.R. 1656 OFFERED BY MR. CALVERT AND MR. COSTELLO

Page 2, line 19, strike "$237,850,000" and insert "$309,662,000".
Page 2, line 19, strike "$235,921,000" and insert "$306,857,000".
Page 2, line 22, strike "$177,000,000" and insert "$136,000,000".
Page 2, line 23, strike "$174,070,000" and insert "$131,840,000".
Page 3, line 9, insert "and" after "Support;".
Page 3, line 13, strike "and".
Page 3, lines 14 through 16, strike subparagraph (E).
Page 3, line 22, strike "and".
Page 3, line 23, through page 4, line 3, strike paragraph (4).
Page 4, after line 3, insert the following new paragraphs:

(4) $102,000,000 for fiscal year 2000 and $102,000,000 for fiscal year 2001 shall be for Field Operations; and

(5) $11,812,000 for fiscal year 2000 and $12,166,000 for fiscal year 2001 shall be for Oak Ridge Landlord.

Page 4, line 22, strike "post" and insert "Post".
Page 5, line 17, strike "$26,227,000" and insert "$39,398,000".
Page 5, line 18, strike "$27,014,000" and insert "$40,185,000".
Page 6, line 3, strike "and".
Page 6, line 6, strike the period and insert "; and".
Page 6, after line 6, insert the following new paragraph:

(4) $13,171,000 for fiscal year 2000 and $13,171,000 for fiscal year 2001 for Management and Planning for the Building Technology, State and Community Sector (nongrants).

Page 8, lines 10 through 16, amend section 5 to read as follows:

SEC. 5. LIMITATION ON DEMONSTRATIONS.

The Department shall provide funding for civilian energy or scientific or commercial application of energy technology demonstration programs, projects, and activities only for technologies or processes that can be reasonably expected to yield new, measurable benefits to the cost, efficiency, or performance of the technology or process.

Page 8, line 23, strike "$500,000" and insert "$2,000,000".
Page 9, line 15, strike "5" and insert "10".
Page 10, line 6, strike "60" and insert "30".
Page 10, line 9, strike "60" and insert "30".
Page 10, after line 13, insert the following new subsection:

(d) EXCEPTION.—Subsections (a) and (b) shall not apply to any construction project which has a current estimated cost of less than $2,000,000.

Page 11, line 4, strike "$500,000" and insert "$750,000".
Page 11, line 10, strike "$1,000,000" and insert "$2,000,000".

Page 11, line 18, strike "$100,000" and insert "$250,000".
Page 11, line 21, strike "$100,000" and insert "$250,000".
Page 12, lines 6 and 7, strike "grants, contracts, subcontracts, or any other form of financial assistance" and insert "contracts or subcontracts".
Page 12, lines 16 through 18, strike "grants, contracts, subcontracts, or any other form of financial assistance" and insert "contracts or subcontracts".
Page 14, line 17, insert "programs, projects, and" after "energy technology".
Page 16, lines 2 and 3, strike "that the articles" and insert "that comparable articles".
Page 17, line 2, insert "or under circumstances permitting other than full and open competition under the Federal Acquisition Regulation" after "provided by law".
Page 18, line 20, strike "machine" and insert "machines".
Page 21, lines 3 through 11, strike subsection (d).
Page 21, lines 12, 19, and 23, redesignate subsections (e) through (g) as subsections (d) through (f), respectively.
Page 23, line 5, strike "pilot project" and insert "pilot projects".
Page 23, line 6, strike "which has" and insert "which have".

Chairman SENSENBRENNER. The gentleman from California will be recognized for five minutes.

Mr. CALVERT. Thank you, Mr. Chairman. I offer this manager's amendment on behalf of myself and my friend, the Ranking Minority Member of the Subcommittee, Mr. Costello. This bipartisan managers amendment makes technical and conforming changes to H.R. 1656 as introduced; better clarifies the intent of the limitations on demonstration section; raises the limits on the provisions dealing with general plant projects, construction projects, authority for conceptual and construction designs; and better clarifies the intent of the production or provision of articles or services, and the eligibility of award section.

Again, after bipartisan consultation with our friends at the Commerce Committee, this amendment transfers the field operations of Oak Ridge Landlord and Building Technology, State and Community Sector Management and Planning line items to this bill, H.R. 1656, from H.R. 1655, and deletes the authorization for Uranium Programs.

I want to thank my friend for his cooperation in crafting this bipartisan managers amendment, and would ask my colleagues for their support. With that, I would yield the balance of my time to Mr. Costello.

Mr. COSTELLO. I thank Chairman Calvert for working with the Minority on this managers amendment, and urge my colleagues to support it.

Chairman SENSENBRENNER. The time is yielded back. Further discussion on the amendment by the gentleman from California, Mr. Calvert? If none, all those in favor will signify by saying aye.

Opposed, no.

The ayes appear to have it. The ayes have it. The amendment is agreed to.

Amendment number 2 is by the gentleman from Colorado, Mr. Udall.

For what purpose does he seek recognition?

Mr. UDALL. Mr. Chairman, I have an amendment at the desk.

Chairman SENSENBRENNER. The clerk will report amendment number 2.

The CLERK. Amendment offered——

Mr. UDALL. Mr. Chairman, I would ask unanimous consent that the amendment be considered as read.

Chairman SENSENBRENNER. Without objection.
[The information follows:]

AMENDMENT OFFERED BY MR. UDALL OF COLORADO TO THE AMENDMENT OFFERED BY MR. CALVERT AND MR. COSTELLO

Page 2, in the item relating to page 5, line 17, in lieu of the matter proposed to be inserted, insert the following: "$41,545,000".
Page 2, in the item relating to page 5, line 18, in lieu of the matter proposed to be inserted, insert the following: "$42,791,540".
Page 2, line 7, strike "$13,171,000" and insert "$15,318,000".
Page 2, line 8, strike "$13,171,000" and insert "$15,777,540".

Mr. UDALL. Thank you, Mr. Chairman. Mr. Chairman, you offered to accept my amendment to this bill provided that I find offsets to the increases in clean energy——

Chairman SENSENBRENNER. The gentleman is recognized for five minutes.

Mr. UDALL. Thank you. Mr. Chairman, you offered to accept my amendment to this bill, provided that I find offsets in the bill to the increases in clean energy programs that I am proposing. I appreciate your offer, and I want to thank you for your readiness to support such an amendment. I know that you understand the importance of these energy efficiency programs, and that you believe in the importance of clean energy research and development.

However, I have chosen not to seek offsets to these programs. As my colleague, Ms. Rivers, explained so well yesterday, these authorization bills are intended to give guidance to appropriators about our priorities, not to fit into some artificially binding number.

How do we determine what is an appropriate level of funding? In some bills we have considered, we have used the President's requested funding levels. In others, we have not. I am simply seeking to restore funding levels to the level of the President's request, a process that involved months of deliberation between DOE and OMB. Moreover, by offsetting my proposed increases, I would be forced to pick and choose between important programs, favoring some over others. This doesn't send the overall signal to appropriators that I would like to send.

Now to the amendment. This amendment would authorize funding for the Department of Energy's Conservation Research and Development Commercial Application Programs at the level of the President's request for Fiscal Year 2000, and would increase these numbers by 3 percent in Fiscal Year 2001. Energy efficiency programs which work to improve energy use in our homes, industries, and cars, are largely voluntary initiatives that further our national goals of broad-based economic growth, environmental protection, national security, and economic competitiveness. DOE's conservation programs are designed to significantly improve the fuel economy of automobiles and other vehicles, to increase the productivity of the Nation's most energy-intensive industries, and improve the energy efficiency of buildings and appliances.

My amendment would allow full funding of the Building Standards and Guidelines Program which assists the building industry in setting codes to provide a working framework for the home building industry, and to help consumers save energy and money, and stay comfortable in energy efficient living spaces.

Additionally, my amendment would allow full funding of the Lighting and Appliances Standards Program. This program enables DOE to work hand in hand in manufacturers to develop such products as the super-efficient refrigerator and the horizontal axis clothes washer, both of which are now being marketed to consumers everywhere for their energy and cost savings.

All of these programs are voluntary initiatives that have drawn from technologies developed in DOE labs, and combined them with the tools necessary to push those technologies into the market. Over the past two decades, energy efficiency has reduced energy use from projected levels by nearly 30 percent, making in effect the Nation's largest energy resource. By developing the means to more cost effectively manage energy use, these programs provide tools for our Nation, our industries, and our citizens to be smart about energy.

In our discussion yesterday, my colleague from Michigan, Mr. Ehlers, pointed out that increasing energy efficiency is really our challenge. Mr. Chairman, I urge you and my colleagues to think about the important implications of these programs for our environment and our future. I urge support for my amendment. Thank you. I yield back the balance.

Chairman SENSENBRENNER. Would the gentleman from Colorado yield?

Mr. UDALL. I would be happy to yield, Mr. Chairman.

Chairman SENSENBRENNER. Listening to your argument, it sounds like you are arguing in favor of amendment number 3 rather than amendment number 2. Amendment number 2 is what was called up and is before us. Does the gentleman want to withdraw amendment number 2 and try amendment number 3?

Mr. UDALL. Thank you, Mr. Chairman. I would ask unanimous consent that amendment 2 be withdrawn.

Chairman SENSENBRENNER. You don't need unanimous consent, because somebody can object to that. That is your right to withdraw it.

All right. Amendment is withdrawn.

Mr. UDALL. I would ask to withdraw my amendment.

Chairman SENSENBRENNER. For what purpose does the gentleman from Colorado seek recognition on amendment number 3?

Mr. UDALL. I would ask that my statement appear in the record.

Chairman SENSENBRENNER. I believe that the gentleman has an amendment at the desk, number 3, which the clerk will report.

The CLERK. Amendment to H.R. 1656——

Mr. UDALL. Mr. Chairman, I would ask unanimous consent that the amendment be considered as read.

Chairman SENSENBRENNER. Without objection.

[The information follows:]

AMENDMENT TO H.R. 1656 OFFERED BY MR. UDALL OF COLORADO

Page 5, line 17, strike "$26,227,000" and insert "$52,163,000".
Page 5, line 18, strike "$27,014,000" and insert "$53,727,890".
Page 6, line 1, strike "$9,138,000" and insert "$12,802,000".
Page 6, line 2, strike "$9,412,000" and insert "$13,186,060".
Page 6, line 4, strike "$6,389,000" and insert "$13,343,000".
Page 6, line 5, strike "$6,581,000" and insert "$13,743,290".
In the matter inserted as section 3(d)(4) by the Managers' Amendment, strike "$13,171,000" the first place it appears and insert "$15,318,000".

In the matter inserted as section 3(d)(4) by the Managers' Amendment, strike "$13,171,000" the second place it appears and insert "$15,777,540".

Chairman SENSENBRENNER. The gentleman is recognized for five minutes.

Mr. UDALL. Mr. Chairman, I would also ask that the statement I just gave be considered as——

Chairman SENSENBRENNER. Without objection, Mr. Udall's statement will be transferred from amendment number 2 to amendment number 3.

Mr. UDALL. Thank you, Mr. Chairman. If I might just add, I appreciate your help. The previous amendment was prepared in response to the managers amendments. After consideration, it was realized we didn't need to submit that amendment. I thank you for your understanding.

Chairman SENSENBRENNER. Further discussion on the Udall amendment? If not, all those in favor will signify by saying aye.

Opposed, no.

The ayes appear to have it. The ayes have it, and the amendment is agreed to.

Amendment number 4 is by the gentlewoman from Illinois, Mrs. Biggert.

For what purpose does she seek recognition?

Mrs. BIGGERT. Thank you, Mr. Chairman. I have an amendment at the desk.

Chairman SENSENBRENNER. The Clerk will report the amendment.

The CLERK. Amendment to H.R. 1656 offered by Mrs. Biggert.

Chairman SENSENBRENNER. Without objection, the amendment is considered as read.

[The information follows:]

AMENDMENT TO H.R. 1656 OFFERED BY MRS. BIGGERT

Page 23, after line 14, insert the following new section:

SEC. 16. INTERNET AVAILABILITY OF INFORMATION.

The Secretary shall make available through the Internet home page of the Department the abstracts relating to all research grants and awards made with funds authorized by this Act. Nothing in this section shall be construed to require or permit the release of any information prohibited by law or regulation from being released to the public.

Chairman SENSENBRENNER. The gentlewoman from Illinois is recognized for five minutes.

Mrs. BIGGERT. Thank you, Mr. Chairman. As in the other bills, this amendment is to have grant abstracts with descriptions of the research being done on the Internet. I think that in this—this agency needs to provide consistent information on grants and awards that is easily accessible. I ask my colleagues to support this amendment.

Chairman SENSENBRENNER. Further discussion on the Biggert amendment? The question is on agreeing to the amendment.

Those in favor will signify by saying aye.

Opposed, no.

The ayes appear to have it. The ayes have it, and the amendment is agreed to.

Amendment number 5 is by Mr. Costello and Mr. Nethercutt.

For what purpose does the gentleman from Illinois seek recognition?

Mr. COSTELLO. Mr. Chairman, I have an amendment at the desk.

Chairman SENSENBRENNER. The clerk will report the amendment.

The CLERK. Amendment to H.R. 1656 offered by Mr. Costello and Mr. Nethercutt.

Chairman SENSENBRENNER. Without objection, the amendment is considered as read.

[The information follows:]

AMENDMENT TO H.R. 1656 OFFERED BY MR. COSTELLO AND MR. NETHERCUTT

Page 23, after line 14, insert the following new section:

SEC. 16. MORATORIUM ON FOREIGN VISITORS PROGRAM.

(a) MORATORIUM.—Until the appropriate conditions are met under subsection (c), the Secretary may not admit any individual who is a citizen of a nation that is named on the current Department of Energy List of Sensitive Countries to—

(1) any classified facility of a laboratory owned by the Department; or

(2) any facility of a laboratory owned by the Department for the purposes of conducting activities related to any of the sensitive subjects listed in part 1 of Appendix 4 of the February 1997 document entitled "Guidelines on Export Control and Nonproliferation", issued by the Nuclear Transfer and Supplier Policy Division of the Office of Arms Control and Nonproliferation of the Office of Nonproliferation and National Security of the Department.

(b) WAIVER AUTHORITY.—(1) The Secretary may waive the prohibition in subsection (a) on a case-by-case basis with respect to specific individuals whose admission to a laboratory owned by the Department is determined by the Secretary to be necessary for the national security of the United States.

(2) Not later than 30 days after granting a waiver under paragraph (1), the Secretary shall transmit to the committees described in subsection (e) a report in writing regarding the waiver. The report shall identify each individual for whom such a waiver is granted and, with respect to each such individual, provide a detailed justification for the waiver and the Secretary's certification that the admission of that individual to a laboratory owned by the Department is necessary for the national security of the United States.

(3) The authority of the Secretary under paragraph (1) may not be delegated.

(c) CONDITIONS FOR LIFTING MORATORIUM.—The moratorium on a laboratory owned by the Department shall be lifted when the Secretary, in consultation with and with the concurrence of the Director of the Federal Bureau of Investigation, transmits to the Congress a report certifying that—

(1) all of the applicable counterintelligence and safeguards and security measures contained in Presidential Decision Directive 61 have been fully implemented at the laboratory, and that adequate oversight and resources exist to ensure that they are properly followed;

(2) all of the additional applicable counterintelligence and safeguards and security measures announced by the Secretary on March 17, 1999, and March 31, 1999, have been fully implemented at the laboratory, and that adequate oversight and resources exist to ensure that they are appropriately followed; and

(3) all of the guidelines in February 1997 document entitled "Guidelines on Export Control and Nonproliferation", issued by the Nuclear Transfer and Supplier Policy Division of the Office of Arms Control and Nonproliferation of the Office of Nonproliferation and National Security of the Department are being followed with respect to all activities at the laboratory.

(d) REPORT TO CONGRESS.—(1) The Director of the Federal Bureau of Investigation and the Secretary jointly shall transmit to the committees described in subsection (e) an annual report, the first of which shall be transmitted not later than 90 days after the date of the enactment of this Act, on counterintelligence and safeguards and security activities at the laboratories owned by the Department, including facilities and areas at those laboratories at which unclassified work is carried out.

(2) The report required by paragraph (1) shall include—

(A) a description of the status of counterintelligence and safeguards and security at each of the laboratories owned by the Department;

(B) a description of the status of the conditions for lifting the moratorium under subsection (c); and

(C) a net assessment of the foreign visitors program at the laboratories owned by the Department, prepared by a panel of individuals with expertise in intelligence, counterintelligence, and nuclear weapons design matters.

(e) COMMITTEES.—The Committees referred to in this section are the Committee on Armed Services, the Committee on Appropriations, the Committee on Commerce, Science, and Transportation, the Committee on Energy and National Resources, and the Select Committee on Intelligence of the Senate, and the Committee on Armed Services, the Committee on Appropriations, the Committee on Commerce, the Committee on Science, and the Permanent Select Committee on Intelligence of the House of Representatives.

Chairman SENSENBRENNER. The gentleman from Illinois is recognized for five minutes.

Mr. COSTELLO. Mr. Chairman, I realize we are trying to get through our business today, so I'll be brief. This is the same amendment that I offered yesterday to Mr. Nethercutt's amendment to H.R. 1655 and then withdrew it because of jurisdictional concerns.

My amendment calls for a moratorium on foreign visitors from sensitive countries to all labs when the visit is to a classified facility, and topics involve export control and non-proliferation. It also waives, provides a waiver of a moratorium on visits related to the U.S.-Russia non-proliferation programs that are important to our national security.

In addition, this is similar to the bipartisan bill passed by the Senate Intelligence Committee. The Secretary can issue waivers as long as he reports to the Congress within 30 days. Also, it contains a sunset to the moratorium after all applicable portions of the Presidential Decision Directive 61 are in place, additional counterintelligence safeguards and security measures announced by the Secretary are in place, and the DOE's current export controls on non-proliferation that govern foreign visits is in place.

In addition, an annual report would be required. The Secretary of DOE would be required to file an annual report, as would the Director of the FBI to the Congress, assessing security at each lab.

Mr. Chairman, I hope that this will address the issue of foreign visitors to our national labs, and I would ask that the amendment be adopted.

Chairman SENSENBRENNER. Will the gentleman yield?

Mr. COSTELLO. I would be happy to yield.

Chairman SENSENBRENNER. I enthusiastically support this amendment. Let me express my appreciation to the gentleman from Illinois for not putting in this version of the amendment. Let me express my appreciation to the gentleman from Illinois for not putting in this version of the amendment to the bill that we considered yesterday. That was important for jurisdictional reasons. The bill we considered yesterday is not within the jurisdiction of other committees and we can bring that bill to the floor relatively promptly if we avoid a sequential referral.

This bill is very clearly in the jurisdiction of other committees in part. So adding this language at this time is not going to slow down the legislative process, but have a much more clear and definitive guideline on when foreign visitors will be allowed, and under what circumstances, while the Department of Energy figures

out how to clean up its act. It has been in disrepair for a good 20 years, from what I have read in the newspaper.

Mr. COSTELLO. Mr. Chairman, I thank you for your support.

Mr. NETHERCUTT. Will the gentleman yield?

Mr. COSTELLO. I would be happy to yield.

Mr. NETHERCUTT. I might just say as a cosponsor of this measure, I also thank the gentleman from Illinois for his discussion and withdrawal of this amendment yesterday. I certainly support the Chairman relative to the jurisdictional question. I thank the gentleman for working with us and trying to make this whole concept of security effective on both yesterday's bill and today's bill. I'll yield back.

Mr. COSTELLO. I thank the gentleman for his support and his input on this amendment.

I yield to Mr. Ehlers.

Mr. EHLERS. Thank you. I thank the gentleman for yielding. I rise to object to the amendment. As I mentioned the other day during the security hearing, I am appalled at some of the practices that the Department of Energy has followed. I have previous experience working in these laboratories. But to my knowledge, foreign visitors have never been a problem. I am not aware of any case where spying has occurred as a result of a foreign visitor taking information in and either selling it or giving it to country of his or her choice.

It seems to me this misleads the public into thinking that the problem is foreign visitors, when in fact, the problem is the DOE's lax security with regard to employees. I really question the need for this amendment. There are already rather stringent requirements on foreign visitors. We have to recognize that foreign visitors generally are far more beneficial to the lab they are visiting than the reverse of that. So I just wanted to voice that concern about passing this amendment. I had somewhat similar reservations about the one yesterday, but that was more tightly constructed, and I don't think it created quite as many problems.

So I register my objections to it, and I would be happy to hear any counter arguments on it. But I really don't think that this is the problem that we have to deal with. I don't think what we have outlined here is necessary. There are other ares of the lab security that are much more at question and have to be dealt with much more promptly rather than spending time on this. Thank you. I yield back.

Chairman SENSENBRENNER. The time belongs to the gentleman from Illinois.

Mr. COSTELLO. If I do have time, let me just address a couple of issues. First, the moratorium applies to all visits to classified facilities.

Chairman SENSENBRENNER. Does the gentleman ask unanimous consent for an additional two minutes?

Mr. COSTELLO. I do, Mr. Chairman.

Chairman SENSENBRENNER. Without objection.

Mr. COSTELLO. For example, the Lawrence Berkeley Lab does not classified work, so this part wouldn't apply to them at all. Let me say that the moratorium on each lab is unlike many of the amendments that I understand will be offered to the DOD authorization

bill and other bills that have jurisdiction. It is unlike those bills in the sense that this in fact has a sunset. As soon as the Secretary of Energy and the Director of the FBI and everyone certifies that the Presidential Directive 61 is in place, in fact it specifically says when all of the security measures are in place, that the moratorium will be lifted and visits can in fact be conducted.

I share Mr. Ehler's concern. I know that it is very healthy for us to be able to allow for us to visit labs in other countries and for us to share our science. This of course only applies to sensitive classified issues that are going on in our labs here in the United States.

Chairman SENSENBRENNER. For what purpose does the gentleman from Michigan seek recognition?

Mr. EHLERS. I move to strike the last word.

Chairman SENSENBRENNER. The gentleman is recognized for five minutes.

Mr. EHLERS. Mr. Chairman, let me just add a few comments on this. First of all, I recognize Lawrence Berkley Lab has no classified areas at this time. Argonne Laboratory, however, which is in Illinois, does have something like 3 percent of their effort is in classified areas. I think it is important also to recognize that a classified area may require the attendance—let me restate that. A foreign visitor may have to enter a classified area to conduct certain experiments. There may be a piece of equipment that is classified but is not conducting a classified experiment at the time that the visitor comes to work on that particular piece of equipment. I believe in that case, there is no reason for the foreign visitor to be hindered in that effort. There is a requirement now that they must be accompanied by either a guard or a person who stays with them constantly while they are in the classified area. So I think we have sufficient security already.

I would also comment in regard to the statement by the gentleman from Illinois, I do appreciate that this amendment is far better than some others that are floating around the Capitol on this issue. I do appreciate that. My point is simply, just because there's a lot of garbage out there doesn't mean we have to offer an amendment that still addresses this. Even though it's not garbage, it is still questionable whether or not we need it. I yield back the balance.

Mr. COSTELLO. I wonder if the gentleman would yield?

Mr. EHLERS. I would be pleased to yield.

Mr. COSTELLO. Let me just finally touch on one point that you mentioned. That is that the Secretary—this amendment is similar to what the Senate Intelligence Committee passed. The Secretary can issue waivers as long as he reports to Congress within 30 days that he in fact issued a waiver. So waivers are built into this amendment, unlike the other amendments that we no doubt will have an opportunity to vote on. I thank the gentleman.

Mr. EHLERS. Reclaiming my time. I just want to thank the gentleman for that statement. That is true, and I recognize that. I am just concerned about misleading the public and anyone else into thinking that this is the cause of the security problems we have had, when to the best of my knowledge, this has never been a prob-

lem. I don't know of any security leak resulting from foreign visitors.

Mr. CALVERT. Mr. Chairman?

Chairman SENSENBRENNER. Does the gentleman from Michigan yield back the balance of his time?

Mr. EHLERS. I yield back the balance of my time.

Mr. CALVERT. Mr. Chairman?

Chairman SENSENBRENNER. The gentleman from California is recognized for five minutes.

Mr. CALVERT. Mr. Chairman, I want to support the amendment from my good friend from Illinois. This is a good amendment. I think it is a reasonable amendment. It has been well thought out. The gentleman from Michigan is correct. There are other ideas out there that are far more radical. I think this is a rational approach to a problem. I don't know if we know all the problems that have happened at the National Laboratories yet. In the short term, I think this is a reasonable approach to be cautious. I support this amendment and I urge its adoption.

I would yield time to the gentleman from California, Mr. Rohrabacher.

Mr. ROHRABACHER. Mr. Chairman, let me just state for the record that I don't think it is a good idea for the United States of America to play host to scientists from totalitarian and potential hostile powers. If the country is anti-democratic and militaristic, and one of the worst human rights abusers or perhaps the worst human rights abuser in the world, as is the case with Communist China, I don't want their scientists in our laboratories. I don't care if there hasn't been any proof that these people have managed to obtain information while on exchange programs to the United States. I don't want to establish personal relationships between Nazi German scientists, even though there hasn't been any proof that those Nazi German scientists stole any information or Communist Chinese scientists or anybody else from a power that's hostile to the United States.

What we have here, and what the big stir in Washington, DC is, along with the Cox Report and everything else, comes right down to a fundamental analysis of how do we cope with 1.2 billion people who are currently under the control of a regime that is the worst human rights abuser in the world, a regime conducting genocide in Tibet, a regime that's modernizing its military, a regime that uses its relationship to the United States to gain leverage on the United States, a regime that is not just potentially hostile, but is run by people who are hostile to everything the United States believes in.

So I am sorry, Vern, and I am sorry to the others. I mean I don't think this amendment goes far enough, as far as I am concerned. I don't want Communist Chinese scientists over here. When they start evolving in the right direction, I'm not talking about imperfect governments now, if they start evolving towards a freer society, boy, I'll be the first one to say let's loosen up here and let more of them come in and let's have a better relationship. But not until that happens.

I yield back the balance of my time.

Mr. EHLERS. Will the gentleman from California yield?

Mr. CALVERT. I would be happy to yield to the gentleman from Michigan.

Mr. EHLERS. Just a brief response, Mr. Chairman. That is, I don't have the list of sensitive countries at hand right now, but to the best of my memory, it included Israel, as an example. There have been extremely fruitful collaborations between the United States and Israel on a number of experiments, some of which involved using equipment housed in classified areas. There are also a large number of other friendly countries on the list. I recognize the need to have some controls with some countries, but I think the majority of the visitors are from friendly countries and not unfriendly ones. I yield back.

Mr. ROHRABACHER. Will the gentleman yield?

Mr. CALVERT. I will be happy to yield.

Mr. ROHRABACHER. I'm not sure how much of the information is public, but I'm sure most of us who have read the classified reports understand that Israel is a proliferator, and a proliferator to countries that are not just hostile to the United States, but who have declared themselves enemies of the United States, who have done great damage to this country. Perhaps whether it's Israel or whatever country, if they are a proliferator or if they are declared hostile to the United States, we should not be facilitating the transfer of information, scientific information to them by having exchange programs.

Now perhaps the current Israeli government will change or perhaps the violations that I saw earlier have been corrected already. If that is the case, terrific. Let's make sure we have a good exchange program. Israel is a democratic country. Israel is not a massive abuser of human rights or an enemy of the United States. But if they either are going to proliferate, if they are going to give our secrets to countries that are enemies of ours, I don't want them in our laboratories. Thank you.

Mr. CALVERT. I yield back.

Chairman SENSENBRENNER. Further discussion on the Costello compromise? [Laughter.]

That's between the Ehlers and Rohrabacher positions. Hearing none, the question is on agreeing to the amendment. Those in favor will signify by saying aye.

Opposed, no.

The ayes appear to have it. The ayes have it, and the amendment is agreed to.

Amendment number six. For what purpose does the gentleman from North Carolina, Mr. Etheridge, seek recognition?

Mr. ETHERIDGE. Mr. Chairman, I have an amendment at the desk.

Chairman SENSENBRENNER. The clerk will report the amendment.

The CLERK. Amendment to H.R. 1656 offered by Mr. Etheridge.

Chairman SENSENBRENNER. Without objection, the amendment is considered as read.

[The information follows:]

AMENDMENT TO H.R. 1656 OFFERED BY MR. ETHERIDGE

Page 23, after line 14, insert the following new section:

SEC. 16. TECHNOLOGY TRANSFER COORDINATION.

Within 90 days after the date of the enactment of this Act, the Secretary shall ensure, for the laboratories owned by the Department carrying out programs under this Act—

(1) consistency of technology transfer policies and procedures with respect to patenting, licensing, and commercialization;

(2) the availability to aggrieved private sector entities on request of binding alternative dispute resolution, nonbinding alternative dispute resolution, mediation, negotiation between authorized representatives of the disputing parties, or resolution by the Department's site contracting officer to resolve disputes regarding all technology transfer and intellectual property matters, with costs and damages to be provided for by the contractor to the extent that any such resolution attributes fault to the contractor;

(3) annual reports to the Secretary, as part of the annual performance evaluation, on technology transfer and intellectual property successes, current technology transfer and intellectual property disputes involving the laboratory, and progress toward resolving those disputes; and

(4) training to ensure that laboratory personnel responsible for patenting, licensing, and commercialization activities are knowledgeable of the appropriate legal, procedural, and ethical issues necessary to carry out those activities with the highest possible professional and ethical standards.

Chairman SENSENBRENNER. The gentleman from North Carolina is recognized for five minutes.

Mr. ETHERIDGE. Thank you, Mr. Chairman. The question is to this Committee, what would you do if you owned a small business, risked your money to license technology from a Federal Government lab, and then find out that you have been sold a bill of goods. It turns out that there isn't much you can do. This very thing happened to Remote Data Systems, a small engineering company in North Carolina.

In 1995, RDS saw an article in Popular Science which touted the radar on the chip technology developed by Lawrence Livermore National Lab. The microcomputer impulse radar device were advertised to be technological miracles. They cost only $10 to make, they would comply with FCC regulations they were told, and the Livermore inventors it said, had won many awards.

The RDS shareholders borrowed money on their personal guarantees to develop the products based on the technology and were under the impression that they had literally struck gold. But it turned out the technology which had been called the most successful technological transfer project in DOE's history, was not a miracle after all. For one, the technology had been the subject of an intellectual property dispute since 1995, a dispute that RDS found out only after the press reported that the Patent Office had initially rejected key claims from Livermore's patent. Despite devoting almost all of its personal resources and all the profits of the company on making it work, RDS found that the technology did not work the way Livermore said it would, and came nowhere close to costing the $10 that they said it would cost.

Finally and most importantly, the technology does not comply with FCC regulations as advertised. In fact, the technology is illegal. What's worse, I'm informed, that Livermore met with the FCC in 1994 and was told that the technology could not comply with the FCC regulations. But that didn't stop them from taking Remote Data's money in 1995, almost a year later, and the money of dozens of other companies.

These facts are presented and can be found in the House Science Committee Democratic Staff's report entitled Spin Off or Rip Off.

I would like to submit the executive summary of that report for the record, Mr. Chairman.

Chairman SENSENBRENNER. Without objection.

[The information follows:]

SPINOFF OR RIPOFF?

EXECUTIVE SUMMARY

It is increasingly apparent that one of the keys to the success of the U.S. innovation system is R&D partnership—that is, "cooperative arrangements engaging companies, universities, and government agencies and laboratories in varying combinations to pool resources in pursuit of a shared R&D objective".[1] These collaborations give us an edge in the international marketplace, but they do not come without conflicts and stresses. For example, university researchers engaged in industrial partnerships often have to adjust to new practices regarding publication rights. Federal agencies may have to deal with fair pricing of products, including breakthrough drugs and genetically engineered seeds, which have been developed at universities with federally sponsored research and then licensed to for-profit corporations. And, with growing economic globalization comes questions about licensing of federally sponsored research to corporations wholly or partly owned by foreign interests.

All facets of these issues are in play in collaborations involving government-owned Laboratories. Since the mid-1980s, Congress has encouraged the Department of Energy (DOE) National Laboratories to partner with industry to transfer technology into the private sector.[2] These partnerships have taken the form of Cooperative Research and Development Agreements (CRADAs) between the Laboratories and consortia of private companies and/or universities, as well as licensing agreements. These activities are designed to enhance U.S. industrial competitiveness by allowing companies access to technologies developed as part of DOE's mission. The Laboratories and their scientists have been given incentives to pursue this new mission: the Laboratory contractors are allowed to retain ownership of the intellectual property developed by the scientists; the Laboratories are able to use licensing fees to fund further technology development; and the inventors receive a share of the licensing fees and royalties.

There has been extensive Congressional oversight of the technology transfer mission of the DOE government-owned contractor-operated laboratories. Advocates of this mission believe that transferring technology developed at the taxpayer's expense to private industry allows taxpayers to reap additional rewards from the technologies. However, skeptics have expressed concerns that the Laboratories may use their resources to unfairly compete against the private sector, that inadequate oversight of Laboratory activities by DOE could result in inappropriate conduct by the Laboratories, and that Laboratory personnel do not have the knowledge necessary to interact with the private sector in a productive manner. The Galvin report, which assessed the state of the National Laboratory system, articulated some of these concerns:

> We are further concerned about the possibility that DOE and its laboratories, in engaging in industrial R&D, may find themselves competing with private firms in providing technical services or new technological developments. In such a situation, the laboratories' access to public funds would give them an inappropriate advantage.[3]

In the Conference Report for the FY99 Energy and Water Appropriations bill, Congress also pointed out the potential advantage the Laboratories might have in competing with existing private sector capabilities, and requested that DOE examine the issue in a section entitled "Competing With Private Sector Companies":

> The Department of energy's laboratories are prohibited from competing with the private sector by numerous statutes and regulations including the

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[1] "Endless Frontier, Limited Resources: U.S. Policy for Competitives", by the Council on Competitiveness, 1996.

[2] See Trademark Clarification Act of 1984 (P.L. 98–620), Federal Technology Transfer Act of 1986 (P.L. 99–502), National Competitiveness Technology Transfer Act of 1989 (Section 3131 of P.L. 101–189), Defense Authorization Act of 1991 (P.L. 101–510), and the National Technology Transfer and Advancement Act of 1995 (P.L. 104–113).

[3] "Alternative Futures for the Department of Energy Laboratories," Secretary of Energy Advisory Board, Task Force on Alternative futures for the Department of Energy Laboratories, February, 1995.

Atomic Energy Act of 1954 and provisions in the Federal Acquisition Regulation regarding Federally Funded Research and Development Centers.

The conferees have received complaints that the Department of energy has failed to enforce these provisions at the laboratories and other facilities, and that adequate recourse is not available to those that allege harm.

The conferees direct the Secretary of Energy to assess the statutory and regulatory limitations on laboratories and other Departmental entities allegedly competing with the private sector, and to ascertain what grievance mechanisms are available to the private sector. The Secretary is directed to provide this information to the Committees by March 1, 1999, and make such information readily available to the private sector.[4]

Technology transfer programs allow Laboratories and inventors to reap financial rewards for patenting and licensing technologies to the private sector, but may not have effective mechanisms to prevent unfair competition with the private sector, misrepresentation of the capabilities of a particular technology to prospective licensees, or intellectual property conflicts. Private sector entities engaged in such activity would be subject to a variety of legally or financially punitive measures such as lawsuits or losses in stock value. By contrast, DOE Laboratories do not risk their annual operating budgets (which, for some Laboratories, exceed $1 billion), and companies who feel they have been wronged by a National Laboratory are faced with the daunting prospect of having to sue the U.S. Government or a National Laboratory (whose litigation costs are often reimbursed by the U.S. Government at the taxpayers' expense).

Allegations of misconduct surround one of the most widely publicized technological developments in DOE history, the Micropower Impulse Radar (MIR) announced by Lawrence Livermore National Laboratory (LLNL) in 1993. MIR, advertised as a cheap, small, low-power ultra-wideband (UWB) radar device, was featured on CNN, in the Financial Times, Business Week, Popular Science, and countless other publications, Thomas McEwan, the LLNL inventor, won the Distinguished Inventor of 1994 award, the only government inventor ever to have been so honored; the technology won an R&D 100 award in 1994. LLNL, the University of California (UC)[5] and Mr. McEwan have collected several million dollars in licensing fees, and LLNL won a Federal Laboratory Consortium Award for Excellence in Technology Transfer in 1995. MIR has been lauded by Laboratory officials in Congressional testimony, and according to LLNL press releases, there have been several thousand inquiries made by interested companies. Thirty licenses for the technology have been sold, each for a $100,000 up-front licensing fee and a $25,000 minimum annual royalty payment. In late 1996, Mr. McEwan left LLNL and started his own company, TEM Innovations, which sought to further commercialize MIR technology.

In June, 1998, Congressman Bud Cramer (D–AL) asked Congressman George Brown (D–CA), ranking Democratic Member of the Houses Science Committee, and several other Members of Congress, to examine long-standing allegations made by Time Domain Corporation (TDC) regarding the development and commercialization of MIR. TDC specifically charged that:

- TDC inventor Larry Fullerton invented and patented the same technology 7 years prior to LLNL/UC;
- LLNL/UC and the MIR inventor, Thomas McEwan, were aware of Fullerton's inventions, but did not cite the inventions or other publications describing them to the Patent Office as is required by law;
- LLNL/UC was engaged in false and deceptive advertising practices, because MIR technology did not perform as advertised from a technical or economic perspective;
- LLNL/UC marketed its technology aggressively in the private sector despite the existence of, and in unfair competition with, TDC's allegedly superior technology;
- LLNL/UC have intentionally misled the licensees of MIR technology regarding the intellectual property dispute between LLNL/UC and TDC;
- High-ranking LLNL/UC and DOE personnel have been aware of these issues since 1995 and have failed to take appropriate measures to resolve them.

House Science Committee Democratic Staff (hereafter to be referred to as Democratic Staff) have examined these allegations. Dozens of technical and legal experts on all sides of the dispute were consulted, including Thomas McEwan, LLNL/UC

[4] Conference Report (H. Rept. 105–749) on H.R. 4060, the Energy and Water Development Appropriations Act of 1999.

[5] LLNL is a Government owned Laboratory that is managed and operated by the University of California under a contract with the DOE.

personnel, DOE personnel, TDC personnel, and independent technical and legal experts, and tens of thousands of pages of documents were reviewed.[6] Several written and verbal requests for information from LLNL/UC were made by Members of Congress and Democratic Staff. LLNL/UC did respond to most requests for information, but generally months after the information was requested, often without providing specific or complete answers to the questions asked, or with information that was later shown to be in conflict with other information obtained by the Democratic Staff.

Democratic Staff have obtained documents that support many of the allegations made by TDC, and in addition have obtained information that suggests further disturbing behavior on the part of LLNL/UC in the development and commercialization of MIR:

- LLNL/UC claimed, to its licensees and prospective licensees of MIR technology, that MIR devices could be licensed by the Federal Communications Commission (FCC), even though LLNL/UC knew that the devices could not comply with FCC regulations and could not be legally marketed. MIR licensees may also have been encouraged to take deceptive measures to gain approval from the FCC and other regulatory bodies;
- There appear to be serious inadequacies in technology transfer and patenting practices at LLNL/UC;
- LLNL/UC misled Members of Congress and the public about the genesis of early UWB radar work at LLNL;
- LLNL/UC may have misled its MIR licensees in a variety of ways, resulting in considerable financial damage to many companies.

It is not the role of a Congressional committee to determine whether the behavior alleged to have been committed by LLNL/UC should incur any civil or criminal penalties. However, there is sufficient information to suggest that LLNL/UC engaged in activities that do not live up to the high professional and ethical standards expected of a federally funded entity. Moreover, LLNL's status as a Federal Laboratory caused some MIR licensees to trust assertions made by the Laboratory to a greater extent than they might have had the licensor been a private entity. In the words of one MIR licensee:

> Perhaps RDS [Remote Data Systems, a MIR licensee] would have been more diligent if the licensor had been a for-profit corporation, but here the licensor was a U.S. Government funded national laboratory with the credentials of having developed revolutionary technologies in the past. Moreover, assurances by LLNL/UC and the policy of limiting of the identity of other licensees restricted the information to which RDS had access.[7]

Not only does this behavior highlight serious problems with technology transfer activities at LLNL/UC, it may also have resulted in substantial economic damages to many U.S. small businesses at the hands of a U.S. Government funded entity. TDC lost several valuable years of the lifetime of its patents by investing significant time and money into attempting to resolve the intellectual property dispute, and claims to have lost tens of millions of dollars in government contracts and licensing revenues. Dozens of companies who licensed MIR invested many millions of dollars trying to develop and commercialize a technology that LLNL/UC may have known was not theirs to license, not legal for the licensees to market, and not capable of living up to its advertisements. The following MIR licensees cite the substantial economic damages their companies suffered at the hands of a U.S. government-funded Laboratory.

> In summary, had Pile Dynamics, Inc. had any knowledge either that the patent for MIR was invalid or that the product would never be FCC compliant under the current regulations, we would not have wasted our money on a LLNL/UC license for Micropower Impulse Radar nor on the subse-

[6] Most LLNL/UC documents cited in this report were obtained from sources other than LLNL/UC, most notably from a company named Geisis which obtained its information only after litigating a California Public Records Act (CPRA, the California equivalent of the Freedom of Information Act) request regarding MIR with LLNL/UC. Ultimately, after a 9-month legal dispute, the judge ordered the release of about 70,000 pages of LLNL/UC documents. LLNL/UC paid almost $70,000 to reimburse Geisis' legal fees, in addition to the $150,000 LLNL/UC spent fighting the request.

[7] November 10, 1998 letter from Mr. Bill Mason, attorney for RDS, to Dr. Michal Freedhoff.

quent 2 year wasted engineering effort. This was a very costly process for us. The negative effects of this have resulted in damage to our business.[8]

After expending these substantial resources, it became apparent that the licensed technology was compromised and not effective for the applications licensed, that the license agreement did not provide meaningful legal protection, and that the FCC certification would be significantly delayed or not be forthcoming at all. * * * In summary, [the MIR licensee] has found that LLNL business practices lacked integrity and transparency. There were extensive delays, attempts to obtain additional monies for the "improvements' which would supposedly make the technology work, and failures to provide support. In general, there was a lack of communication and cooperation by LLNL. Contrary to LLNL's indications that the technology was reliable and functional, that the license would provide valuable legal protection, and that it was highly confident of obtaining FCC certification, none of these were forthcoming.[9]

The broader consequences of this case are of even greater concern—namely, a lack of serious oversight of Laboratory technology transfer activities by DOE and UC. Some MIR licensees contacted by Democratic Staff have decided never to partner with a National Laboratory again, highlighting a profound lack of trust in the U.S. Government in the words of TDC:

As the son of a distinguished government research scientist, and as someone who has personally benefited from NASA Technology Transfer programs, I am greatly saddened that the actions of LLNL–UC will bring unfair criticism to legitimate government research scientists. LLNL–UC's actions could undermine national support for important national research goals and endanger future funding.[10]

The U.S. Congress and the DOE need to seriously and comprehensively evaluate the technology transfer activities of the DOE Laboratories, and take whatever legislative and/or administrative measures are necessary to ensure that the Laboratories conduct these activities in the future in a manner consistent with the highest possible professional and ethical standards.

Chairman SENSENBRENNER. Will the gentleman yield?

Mr. ETHERIDGE. Yes, sir.

Chairman SENSENBRENNER. I am prepared to support the amendment. I think that there are some drafting problems that we will be willing to work with you to resolve between now and the time the bill goes to the Floor. I think it's important that there be provisions in the statute that clearly states what's in-bounds and what's out-of-bounds over at the national labs. I think that this is a welcome addition to the bill.

With respect to the allegations that appeared in *USA Today* a number of weeks ago on this issue, I just want the record to state that right after they did that, I have written the Patent Office asking for a speedy determination of the claims.

Mr. ETHERIDGE. Very good.

Chairman SENSENBRENNER. Because either the patent was violated by the Department of Energy's labs or it was not. That should not be a legislative determination. That should be a determination that is made on the facts and the evidence by the Patent Office, which is subject to judicial review if somebody disagrees with their decision. That is the proper way to get a final determination on that.

But I have asked the Patent Office not to tarry on this, because I do think that it is important for them to make a determination

[8] December 17, 1998 letter form Mr. George Piscsalko, Pile Dynamics, Inc., to Dr. Michal Freedhoff.

[9] December 22, 1998 email from the CEO of a MIR licensee company to Dr. Michal Freedhoff.

[10] February 9, 1999 letter from Mr. Ralph Petroff, President and CEO of TDC, to Dr. Michal Freedhoff.

which we can review, as well as the parties to this dispute. So I would hope that this amendment would be adopted, and we'll work with you to try to improve upon it.

Mr. ETHERIDGE. Thank you, Mr. Chairman. I would be happy to make whatever adjustments we need, but I think it's important that we get at least a policy in place.

Mrs. MORELLA. Mr. Chairman?

Chairman SENSENBRENNER. The gentlewoman from Maryland, for what purpose do you seek recognition?

Mrs. MORELLA. Thank you. To comment. To strike the last word.

Chairman SENSENBRENNER. The gentlewoman is recognized for five minutes.

Mrs. MORELLA. Thank you. I want to commend Mr. Etheridge, who is a member of our Technology Subcommittee, for his amendment and his interest in furthering Federal technology transfer. From what I understand, Mr. Chairman, from what you have just said, you will not oppose the amendment in the hopes that the technical aspects and other concerns can be addressed. I agree. I will not oppose the amendment. But again, I make a plea that some concerns be addressed.

I do want to—I believe it is important to note for the record that the Department of Energy and a number of Federal laboratories have significant concerns regarding the provisions contained in the amendment before us. My office has been contacted by Lawrence Livermore National Laboratory, Los Alamos National Laboratory, and Sandia National Laboratories, expressing their belief that the amendment, if adopted, could significantly impact the public policy objectives of the technology transfer programs that Congress has carefully crafted over the past 19 years.

As the author of a number of technology transfer bills that have been supported by this Committee, I have sought to pursue greater collaboration between our Federal labs, private industry, and universities, with the goal of encouraging commercialization of taxpayer-funded technology in order to assure public access and to provide a return on our R&D investment to the American people.

The Department of Energy's concern that's also echoed by other Federal laboratories is that this amendment would fundamentally shift the nature of the relationship between the laboratories and its industrial partners by potentially placing the two in an adversarial relationship. Currently, the Department, the laboratories, and their industrial partners have equal access to all formal and informal mechanisms to resolve conflicts. While there may be conflicts that arise in negotiations over licenses and research and development agreements, they are often resolved through compromises reached in the process of achieving a mutual agreement, with most disputes historically having been resolved informally.

The amendment's requirement that an industrial partner would have the right to a binding non-judicial process with the exception of finding a fault being placed on one of the parties as a first attempt at resolving differences between the two partners could significantly increase the number of challenges to technology transfer related actions. The Federal labs believe that this requirement could result in increased costs of legal defense, create a hostile ad-

versarial climate instead of a climate of cooperative partnership, and potentially prolong the process of resolution.

Additionally, the Federal labs believe that this amendment would place them at a disadvantage in fulfilling their obligations under existing laws to protect the public's investment in the technology that they have developed by limiting their opportunity to the appropriate legal recourse in reaching disputes.

So I offer this in the hopes that as this bill is being prepared for consideration by the House, and I understand the motivation for the gentleman from North Carolina, that he will be able to work out these concerns and others relating to various ambiguities in his amendment with the Department of Energy and the Federal laboratories. By successfully addressing these concerns, I think that Mr. Etheridge could improve his amendment and improve our federal technology transfer process.

Mr. ETHERIDGE. Will the lady yield?

Mrs. MORELLA. I stand ready to work with him. Yes, indeed.

Mr. ETHERIDGE. Thank you. I look forward to working with you, Madam Chair, because we have had a chance to work on transfer. I believe very strongly in it.

It bothers me that DOE has had the amendment almost three weeks, and they chose not to even talk about it. I think they are the ones who really ought to come forward and come forward earlier so we can work them out. But I look forward to working out the details so that it can be appropriate.

Really the issue that I want to get to is just make sure that there is protection on both sides. We certainly don't want to do anything to limit the transfer to the private sector, because that's really where the action is.

Mrs. MORELLA. I understand your motivation and value your feeling about it. I would agree with you too, that DOE should have contacted you about that as they contacted me. Thank you. I yield back, Mr. Chairman.

Mr. DOYLE. Mr. Chairman.

Chairman SENSENBRENNER. Who seeks recognition? The gentleman from Pennsylvania, Mr. Doyle, for what purpose do you seek recognition?

Mr. DOYLE. I move to strike the last word.

Chairman SENSENBRENNER. The gentleman is recognized for five minutes.

Mr. DOYLE. Thank you, Mr. Chairman. I would just like to say a few words on the amendment offered by my colleague, Mr. Etheridge. This is a complex issue. I recognize that a lot of work has been done on this issue by the Democratic and Republican staffs and representatives at DOE. The work is continuing. The intent of the amendment, as I understand it, is to address specific abuses at DOE National Labs with regard to technology transfer.

Mr. Chairman, I have the honor to work closely with DOE personnel at a research in my district, the Federal Energy Technology Center, which operates under different rules in technology transfer and a host of other areas. For example, Government-owned, Government-operated research facilities such as the one in my district are subject to Department of Commerce regulations on technology transfer, unlike the National Labs.

In short, I am aware that the work is continuing on this amendment. I understand that the Administration has concerns at this point, and everyone is working hard to address the issues raised by Mr. Etheridge without creating additional barriers to cooperation between the Department of Energy and industry.

We have an understanding that one of the changes that has been agreed to in the current round of drafting is to exclude Government-owned, Government-operated research facilities from the restrictions imposed by the amendment. The grounds for this are that the intent of the amendment is to address specific problems at the National Labs with regard to technology transfer, and because there are different regulations governing technology transfer at these two different kinds of research facilities.

With that understanding, and recognizing that the work is continuing on the details, I intend to support the amendment offered by my colleague, Mr. Etheridge. Thank you, Mr. Chairman. I yield back the balance of my time.

Chairman SENSENBRENNER. The question is on agreeing to the amendment by the gentleman from North Carolina, Mr. Etheridge. Those in favor will signify by saying aye.

Opposed, no.

The ayes appear to have it. The ayes have it, and the amendment is agreed to.

Number 7, by Mr. Costello. For what purpose do you seek recognition?

Mr. COSTELLO. Mr. Chairman, I have a replacement amendment to my amendment at the desk.

Chairman SENSENBRENNER. The clerk will report the amendment. The staff will distribute it.

The CLERK. Amendment to H.R. 1656 offered by Mr. Costello.

Chairman SENSENBRENNER. Without objection, the amendment is considered as read.

[The information follows:]

AMENDMENT TO H.R. 1656 OFFERED BY MR. COSTELLO

Page 23, after line 14, insert the following new section:

SEC. 16. DEPARTMENT OF ENERGY REGULATIONS RELATING TO THE SAFEGUARDING AND SECURITY OF RESTRICTED DATA.

(a) IN GENERAL.—Chapter 18 of title I of the Atomic Energy Act of 1954 (42 U.S.C. 2271 et seq.) is amended by inserting after section 234A the following new section:

"SEC. 234B. CIVIL MONETARY PENALTIES FOR VIOLATIONS OF DEPARTMENT OF ENERGY REGULATIONS REGARDING SECURITY OF CLASSIFIED OR SENSITIVE INFORMATION OR DATA.—

"a. Any person who has entered into a contract or agreement with the Department of Energy, or a subcontract or subagreement thereto, and who violates (or whose employee violates) any applicable rule, regulation, or order prescribed or otherwise issued by the Secretary pursuant to this Act relating to the safeguarding or security of Restricted Data or other classified or sensitive information shall be subject to a civil penalty of not to exceed $100,000 for each such violation.

"b. The Secretary shall include in each contract with a contractor of the Department provisions which provide an appropriate reduction in the fees or amounts paid to the contractor under the contract in the event of a violation by the contractor or contractor employee of any rule, regulation, or order relating to the safeguarding or security of Restricted Data or other classified or sensitive information. The provisions shall specify various degrees of violations and the amount of the reduction attributable to each degree of violation.

"c. The powers and limitations applicable to the assessment of civil penalties under section 234A, except for subsection d. of that section, shall apply to the assessment of civil penalties under this section.".

(b) CLARIFYING AMENDMENT.—The section heading of section 234A of such Act (42 U.S.C. 2282a) is amended by inserting "SAFETY" before "REGULATIONS".

(c) CLERICAL AMENDMENT.—The table of sections for that Act is amended by inserting after the item relating to section 234 the following new items:

"Sec. 234A. Civil Monetary Penalties for Violations of Department of Energy Safety Regulations.
"Sec. 234B. Civil Monetary Penalties for Violations of Department of Energy Regulations Regarding Security of Classified or Sensitive Information or Data.".

Chairman SENSENBRENNER. Will the gentleman from Illinois in his five minutes explain the differences between this and what's in the packet?

Mr. COSTELLO. Mr. Chairman, first, last week as you well know and the members of this Committee know, Secretary Richardson testified before the Committee. He agreed that civil fines should be charged for infractions of civil liabilities, including not-for-profit contractors such as universities. Therefore, I am offering the following amendment.

This amendment, one, ensures that any lab contractor who violates the rules relating to the safeguards and security of sensitive information of data will be accountable. Two, this is similar to bipartisan language passed in the Senate Armed Services Committee last week. Three, the amendment calls for a new fine of up to $100,000 to be imposed on lab contractors in the event that the contractor or contracting employee violates any of the rules associated with keeping classified data secure. Last, it will, in my judgment, provide lab contractors and universities an incentive to protect our national security.

Without this amendment, Mr. Chairman, as you recognized and stated so, I believe, before Secretary Richardson when he was with the Committee last week, right now the private contractors are held accountable, but contract employees and universities are not. This amendment will rectify that problem and provide an incentive, in my judgment, for universities and private contractors to protect our national security.

Chairman SENSENBRENNER. Will the gentleman yield?

Mr. COSTELLO. I would be happy to yield, Mr. Chairman.

Chairman SENSENBRENNER. I would like to commend the gentleman for drafting this amendment. In fact, this amendment is better than what is in the Senate version of the Department of Defense authorization bill, because the Senate tied its penalties to the limitations in the Price-Andersen Act, and had a number of specific exemptions which included all of the contractors at the major labs where sensitive and classified material is dealt with. So it is something that appears to impose a penalty on the contractor for breach of security, but when you look at the fine print, it shows that it is not.

Your amendment I think does what the Secretary needs to have. It is better than what the Senate did, but that doesn't surprise me. So I am happy to support it.

Mr. COSTELLO. Mr. Chairman, thank you. You have just explained the difference between my amendment that was in the packet and the replacement amendment. I want to thank you for your support, and not only for supporting the amendment today, but for your input to strengthen this amendment.

Chairman SENSENBRENNER. Does the gentleman yield back the balance of his time? Further discussion on Costello amendment number 7? Hearing none, all those in favor of agreeing to the amendment will signify by saying aye.

Opposed, no.

The ayes appear to have it. The ayes have it, and the amendment is agreed to.

Number 8, by Mr. Calvert and Mr. Rohrabacher. For what purpose does the gentleman from California seek recognition?

Mr. CALVERT. Mr. Chairman, I have an amendment at the desk.

Chairman SENSENBRENNER. The clerk will report the amendment.

The CLERK. Amendment to H.R. 1656 offered by Mr. Calvert and Mr. Rohrabacher.

Chairman SENSENBRENNER. Without objection, the amendment is considered as read.

[The information follows:]

AMENDMENT TO H.R. 1656 OFFERED BY MR. CALVERT AND MR. ROHRABACHER

Page 23, after line 14, insert the following new sections:

SEC. 16. WHISTLEBLOWER PROTECTION.

(a) PROGRAM.—The Secretary shall establish a program to ensure that an employee of the Department, or a contractor employee, may not be discharged, demoted, or otherwise discriminated against as a reprisal for disclosing to a person or entity referred to in subsection (b) information which the employee or contractor employee reasonably believes to provide direct and specific evidence of a violation described in subsection (c).

(b) COVERED PERSONS AND ENTITIES.—A person or entity referred to in this subsection is the following:

(1) A Member of Congress.

(2) An employee of Congress who has an appropriate security clearance for access to the information.

(3) The Inspector General of the Department.

(4) The Federal Bureau of Investigation.

(5) Any other element of the Federal Government designated by the Secretary as authorized to receive information of the type disclosed.

(c) COVERED VIOLATIONS.—A violation referred to in subsection (a) is—

(1) a violation of law or Federal regulation;

(2) gross mismanagement, a gross waste of funds, or abuse of authority; or

(3) a false statement to Congress on an issue of material fact.

SEC. 17. INVESTIGATION AND REMEDIATION OF ALLEGED REPRISALS FOR DISCLOSURE OF CERTAIN INFORMATION TO CONGRESS.

(a) SUBMITTAL OF ALLEGATIONS TO INSPECTOR GENERAL.—A Department employee or contractor employee who believes that the employee has been discharged, demoted, or otherwise discriminated against as a reprisal for disclosing information referred to in subsection (a) of section 16 in accordance with the provisions of that section may submit a complaint relating to such action to the Inspector General of the Department.

(b) INVESTIGATION.—(1) For each complaint submitted under subsection (a), the Inspector General shall—

(A) determine whether or not the complaint is frivolous; and

(B) if the Inspector General determines the complaint is not frivolous, conduct an investigation of the complaint.

(2) The Inspector General shall submit a report on each investigation undertaken under paragraph (1)(B) to—

(A) the employee who submitted the complaint on which the investigation is based;

(B) the contractor concerned, if any; and

(C) the Secretary.

(c) REMEDIAL ACTIONS.—(1) If the Secretary determines that an employee has been subjected to an adverse personnel action referred to in subsection (a) in contravention of the provisions of section 16(a), the Secretary shall—

(A) in the case of a Department employee, take appropriate actions to abate the action; or

(B) in the case of a contractor employee, order the contractor concerned to take appropriate actions to abate the action.

(2)(A) If a contractor fails to comply with an order issued under paragraph (1)(B), the Secretary may file an action for enforcement of the order in the appropriate United States district court.

(B) In any action brought under subparagraph (A), the court may grant appropriate relief, including injunctive relief and compensatory and exemplary damages.

(d) QUARTERLY REPORT.—(1) Not later than 30 days after the commencement of each fiscal quarter, the Inspector General shall submit to the Committee on Science and other relevant committees of the House of Representatives, and to the Committee on Energy and Natural Resources and other relevant committees of the Senate, a report on the investigations undertaken under subsection (b)(1)(B) during the preceding fiscal quarter, including a summary of the results of such investigations.

(2) A report under paragraph (1) shall not identify or otherwise provide any information on a person submitting a complaint under this section without the consent of the person.

Chairman SENSENBRENNER. The gentleman from California, Mr. Calvert, is recognized for five minutes.

Mr. CALVERT. Mr. Chairman, this amendment, the whistleblower protection amendment, crafted along with my good friend Mr. Rohrabacher, is an attempt to address certain recently revealed problems at the Department of Energy. This amendment establishes a program within DOE to ensure that an employee or contractor shall not be retaliated against for disclosing waste, fraud, and abuse or violations of the law by the Department.

Furthermore, it calls upon the DOE Inspector General to investigate allegations, and report back to employees and contractors involved, and the Secretary. The Secretary is required to undertake appropriate remedial action. The IG shall also be required to submit a quarterly report of its investigation to the House Committee on Science and other appropriate committees.

I ask for the members of the Committee to support this important amendment that will protect DOE employees. With that, I yield time to my friend, Mr. Rohrabacher.

Mr. ROHRABACHER. I am in strong support of this amendment. Currently, at the Department of Energy, there is a controversy swirling around one of the people that was identified by The Wall Street Journal as a security official who was Director of the Safeguards and Security Office at the Department of Energy. During that time period, The Wall Street Journal stated that he had identified lax security inside the Agency. His name is Ed McCallum.

Unfortunately, Mr. McCallum, for being what is the equivalent of a whistleblower, is now finding himself charged with all kinds of charges and going through all kinds of problems. This is what happens sometimes.

Now I cannot at this time say what are the facts behind this because it needs to be looked into, because this man might be guilty of some of the charges against him, or he might be totally innocent. But we know that when you have someone who is willing to speak up and point out mistakes that are going on within an agency, that they are leaving themselves open to all kinds of abuse, especially in terms of this national security issue, which is controversial and one that has a great deal of public attention now.

I think that it behooves all of us to make sure that if people like Ed McCallum are being unjustly punished simply by bringing out

or bringing to attention to the Congress things that should be taken care of at the agencies, that they not be retaliated against. I believe that this, Mr. Calvert's amendment will go a long way to sending the type of message that we need to have sent, and also to protecting people or watching out for the interests of our country.

With that said, I yield back my time to Mr. Calvert.

Mr. CALVERT. I yield back the balance of my time.

Chairman SENSENBRENNER. Further discussion? The gentleman from Illinois, Mr. Costello.

Mr. COSTELLO. Mr. Chairman, I strike the last word.

Chairman SENSENBRENNER. The gentleman is recognized for five minutes.

Mr. COSTELLO. Mr. Chairman, I want to commend Chairman Calvert and my friend Mr. Rohrabacher for proposing this amendment. I have read similar press reports, and we had Secretary Richardson before the Committee last week. I think Mr. Rohrabacher asked some important questions about whistleblowing at the Department. I think the last thing we want to do is to send the message out to employees at DOE or any other Federal agency that if they come forward and identify security lapses or other problems within their agency that they will be retaliated against.

So I commend my colleagues for supporting or proposing this amendment, and urge my colleagues to support it.

Mr. ROHRABACHER. Will the gentleman yield?

Mr. COSTELLO. I would be happy to yield?

Mr. ROHRABACHER. Just for the record, I have every faith in Bill Richardson. I think Bill Richardson is a terrific human being. I am sorry that he didn't get over to the Department of Energy earlier. He has my faith and confidence. But I do know that the people under him have been working there, and maybe they have made mistakes, and maybe they would report something that wasn't true to him. So while I have every faith in Mr. Richardson, we have to make sure that any of these charges that are brought up, and especially the people who are making charges, are protected so they know that they shouldn't just keep their mouth shut.

With that, again, I don't want anybody to believe that we don't have faith in Bill Richardson. He is a fine man. We worked with him here in Congress. He is a man of his word. He is a man of integrity.

Chairman SENSENBRENNER. The question is on agreeing to the amendment by the gentleman from California, Mr. Calvert. Those in favor will signify by saying aye.

Opposed, no.

The ayes appear to have it. The ayes have it, and the amendment is agreed to.

Are there further amendments to the bill? If not, report language and the gentleman from California, Mr. Calvert, has a unanimous consent relative to tables.

Mr. CALVERT. Thank you, Mr. Chairman. I ask unanimous consent that the budget tables for H.R. 1656 be included in the bill's report language, and that the staff be permitted to make technical corrections. This is consistent with Mr. Hall's unanimous consent

offered yesterday on H.R. 1655. I ask my colleagues to support its adoption. Thank you.

Chairman SENSENBRENNER. Without objection, the gentleman's unanimous consent is agreed to.

Further report language on this bill? If not, it is time to make a motion to report the bill favorably.

The gentleman from Illinois, Mr. Costello.

Mr. COSTELLO. Mr. Chairman, I move that the Committee favorably report H.R. 1656, as amended, to the House with the recommendation that the bill, as amended, do pass. Furthermore, I move that staff be instructed to prepare the legislative report and make necessary technical and conforming amendments, and that the Chairman take all necessary steps to bring the bill before the House for consideration.

Chairman SENSENBRENNER. You have heard the motion. The Chair notes the presence of a reporting quorum. Those in favor of reporting the bill favorably will signify by saying aye.

Opposed, no.

The ayes appear to have it. The ayes have it. The bill is reported favorably.

Members will have two subsequent calendar days in which to submit supplemental Minority dissenting or additional views. Without objection, pursuant to clause 1 of rule XXII of the rules of the House, the Committee authorizes the Chairman to offer such motions as may be necessary in the House to go to conference with the Senate on the bill. Without objection, the staff is given the authority to make technical and conforming changes to the bill, and without objection to this bill and the two previous bills reported today, they will be reported in the form of a single amendment in the nature of a substitute reflecting all amendments that were adopted today. Without objection, those unanimous consents are agreed to.

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