

# Union Calendar No. 367

106<sup>TH</sup> CONGRESS  
2<sup>D</sup> SESSION

# H. R. 1656

**[Report No. 106–492, Part I]**

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.

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## IN THE HOUSE OF REPRESENTATIVES

MAY 3, 1999

Mr. CALVERT introduced the following bill; which was referred to the Committee on Science, and in addition to the Committees on Commerce, and Education and the Workforce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

FEBRUARY 3, 2000

Reported from the Committee on Science with an amendment

[Strike out all after the enacting clause and insert the part printed in *italic*]

FEBRUARY 3, 2000

Referral to the Committees on Commerce, and Education and the Workforce,  
extended for a period ending not later than April 14, 2000

APRIL 14, 2000

Referral to the Committees on Commerce, and Education and the Workforce,  
extended for a period ending not later than May 26, 2000

MAY 26, 2000

Referral to the Committees on Commerce, and Education and the Workforce,  
extended for a period ending not later than June 7, 2000

JUNE 7, 2000

Referral to the Committees on Commerce, and Education and the Workforce,  
extended for a period ending not later than June 9, 2000

JUNE 9, 2000

Committees on Commerce, and Education and the Workforce, discharged;  
committed to the Committee of the Whole House on the State of the  
Union and ordered to be printed

[For text of introduced bill, see copy of bill as introduced on May 3, 1999]

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## 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.

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

3 **SECTION 1. SHORT TITLE.**

4 *This Act may be cited as the “Department of Energy*  
5 *Commercial Application of Energy Technology Authoriza-*  
6 *tion Act of 1999”.*

7 **SEC. 2. DEFINITIONS.**

8 *For the purposes of this Act—*

9 *(1) the term “Department” means the Depart-*  
10 *ment of Energy; and*

11 *(2) the term “Secretary” means the Secretary of*  
12 *Energy.*

13 **SEC. 3. AUTHORIZATION OF APPROPRIATIONS.**

14 *(a) ENERGY SUPPLY.—There are authorized to be ap-*  
15 *propriated to the Secretary for Energy Supply commercial*

1 *application of energy technology and related civilian energy*  
2 *and scientific research, development, and demonstration op-*  
3 *eration and maintenance and construction programs,*  
4 *projects, and activities for which specific sums are not au-*  
5 *thorized under other authority of law \$309,662,000 for fis-*  
6 *cal year 2000 and \$306,857,000 for fiscal year 2001, to re-*  
7 *main available through the end of fiscal year 2002, of*  
8 *which—*

9           (1) *\$136,000,000 for fiscal year 2000 and*  
10       *\$131,840,000 for fiscal year 2001 shall be for Nuclear*  
11       *Energy, including—*

12                   (A) *\$85,000,000 for fiscal year 2000 and*  
13       *\$87,550,000 for fiscal year 2001 for Termination*  
14       *Costs;*

15                   (B) *\$30,000,000 for fiscal year 2000 and*  
16       *\$30,900,000 for fiscal year 2001 for the Fast*  
17       *Flux Test Facility;*

18                   (C) *\$13,000,000 for fiscal year 2000 and*  
19       *\$13,390,000 for fiscal year 2001 for Isotope Sup-*  
20       *port; and*

21                   (D) *\$8,000,000 for fiscal year 2000 for com-*  
22       *pletion of Project 98–E–201, Isotope Production*  
23       *Facility, Los Alamos National Laboratory;*

1           (2) \$50,750,000 for fiscal year 2000 and  
2           \$51,703,000 for fiscal year 2001 shall be for Environ-  
3           ment, Safety, and Health;

4           (3) \$9,100,000 for fiscal year 2000 and  
5           \$9,148,000 for fiscal year 2001 shall be for Technical  
6           Information Management;

7           (4) \$102,000,000 for fiscal year 2000 and  
8           \$102,000,000 for fiscal year 2001 shall be for Field  
9           Operations; and

10          (5) \$11,812,000 for fiscal year 2000 and  
11          \$12,166,000 for fiscal year 2001 shall be for Oak  
12          Ridge Landlord.

13          (b) *NON-DEFENSE ENVIRONMENTAL MANAGEMENT.*—  
14          *There are authorized to be appropriated to the Secretary*  
15          *for Non-Defense Environmental Management commercial*  
16          *application of energy technology and related civilian energy*  
17          *and scientific research, development, and demonstration op-*  
18          *eration and maintenance programs, projects, and activities*  
19          *for which specific sums are not authorized under other au-*  
20          *thority of law \$330,934,000 for fiscal year 2000 and*  
21          *\$340,862,000 for fiscal year 2001, to remain available*  
22          *through the end of fiscal year 2002, of which—*

23               (1) \$211,146,000 for fiscal year 2000 and  
24               \$217,480,000 for fiscal year 2001 shall be for Site  
25               Closure;

1           (2) \$100,866,000 for fiscal year 2000 and  
2       \$103,892,000 for fiscal year 2001 shall be for the Site/  
3       Project Completion; and

4           (3) \$18,922,000 for fiscal year 2000 and  
5       \$19,490,000 for fiscal year 2001 shall be for Post  
6       2006 Completion.

7       (c) *FOSSIL ENERGY RESEARCH AND DEVELOPMENT.*—  
8       *There are authorized to be appropriated to the Secretary*  
9       *for Fossil Energy Research and Development Environ-*  
10      *mental Restoration commercial application of energy tech-*  
11      *nology and related civilian energy and scientific research,*  
12      *development, and demonstration operation and mainte-*  
13      *nance programs, projects, and activities for which specific*  
14      *sums are not authorized under other authority of law*  
15      *\$10,000,000 for fiscal year 2000 and \$10,300,000 for fiscal*  
16      *year 2001, to remain available through the end of fiscal*  
17      *year 2002.*

18       (d) *ENERGY CONSERVATION RESEARCH AND DEVEL-*  
19      *OPMENT.*—*There are authorized to be appropriated to the*  
20      *Secretary for Energy Conservation Research and Develop-*  
21      *ment commercial application of energy technology and re-*  
22      *lated civilian energy and scientific research, development,*  
23      *and demonstration operation and maintenance programs,*  
24      *projects, and activities for which specific sums are not au-*  
25      *thorized under other authority of law \$52,163,000 for fiscal*

1 *year 2000 and \$53,727,890 for fiscal year 2001, to remain*  
 2 *available through the end of fiscal year 2002, of which—*

3 *(1) \$10,700,000 for fiscal year 2000 and*  
 4 *\$11,021,000 for fiscal year 2001 shall be for Clean*  
 5 *Cities;*

6 *(2) \$12,802,000 for fiscal year 2000 and*  
 7 *\$13,186,060 for fiscal year 2001 shall be for Building*  
 8 *Standards and Guidelines;*

9 *(3) \$13,343,000 for fiscal year 2000 and*  
 10 *\$13,743,290 for fiscal year 2001 shall be for Lighting*  
 11 *and Appliance Standards; and*

12 *(4) \$15,318,000 for fiscal year 2000 and*  
 13 *\$15,777,540 for fiscal year 2001 for Management and*  
 14 *Planning for the Building Technology, State and*  
 15 *Community Sector (nongrants).*

16 **SEC. 4. NOTICE.**

17 *(a) REPROGRAMMING.—The Secretary may use for*  
 18 *any authorized civilian energy or scientific research, devel-*  
 19 *opment, and demonstration and commercial application of*  
 20 *energy technology programs, projects, and activities of the*  
 21 *Department—*

22 *(1) up to the lesser of \$250,000 or 5 percent of*  
 23 *the total funding for a fiscal year of another such pro-*  
 24 *gram, project, or activity of the Department; or*

1           (2) *after the expiration of 60 days after trans-*  
2           *mitting to the Committee on Science and the Com-*  
3           *mittee on Appropriations of the House of Representa-*  
4           *tives, and to the Committee on Energy and Natural*  
5           *Resources and the Committee on Appropriations of*  
6           *the Senate, a report described in subsection (b), up to*  
7           *25 percent of the total funding for a fiscal year of an-*  
8           *other such program, project, or activity of the Depart-*  
9           *ment.*

10          (b) *REPORT.—(1) The report referred to in subsection*  
11          *(a)(2) is a report containing a full and complete statement*  
12          *of the action proposed to be taken and the facts and cir-*  
13          *cumstances relied upon in support of such proposed action.*

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

18          (c) *LIMITATIONS.—In no event may funds be used pur-*  
19          *suant to subsection (a) for a civilian energy or scientific*  
20          *research, development, and demonstration or commercial*  
21          *application of energy technology program, project, or activ-*  
22          *ity for which funding has been requested to the Congress*  
23          *but which has not been funded by the Congress.*

24          (d) *NOTICE OF REORGANIZATION.—The Secretary*  
25          *shall provide notice to the Committee on Science and the*

1 *Committee on Appropriations of the House of Representa-*  
2 *tives, and to the Committee on Energy and Natural Re-*  
3 *sources and the Committee on Appropriations of the Senate,*  
4 *not later than 15 days before any major reorganization of*  
5 *any civilian energy or scientific research, development, and*  
6 *demonstration or commercial application of energy tech-*  
7 *nology program, project, or activity of the Department.*

8       (e) *COPY OF REPORTS.*—*The Secretary shall provide*  
9 *copies to the Committee on Science and the Committee on*  
10 *Appropriations of the House of Representatives, and to the*  
11 *Committee on Energy and Natural Resources and the Com-*  
12 *mittee on Appropriations of the Senate, of any report relat-*  
13 *ing to the civilian energy or scientific research, develop-*  
14 *ment, and demonstration or commercial application of en-*  
15 *ergy technology activities of the Department prepared at*  
16 *the direction of any committee of Congress.*

17 **SEC. 5. LIMITATION ON DEMONSTRATIONS.**

18       *The Department shall provide funding for civilian en-*  
19 *ergy or scientific or commercial application of energy tech-*  
20 *nology demonstration programs, projects, and activities*  
21 *only for technologies or processes that can be reasonably ex-*  
22 *pected to yield new, measurable benefits to the cost, effi-*  
23 *ciency, or performance of the technology or process.*



1 **SEC. 6. LIMITS ON GENERAL PLANT PROJECTS.**

2 *If, at any time during the construction of a civilian*  
3 *energy or scientific research, development, and demonstra-*  
4 *tion or commercial application of energy technology project*  
5 *of the Department for which no specific funding level is pro-*  
6 *vided by law, the estimated cost (including any revision*  
7 *thereof) of the project exceeds \$2,000,000, the Secretary may*  
8 *not continue such construction unless the Secretary has fur-*  
9 *nished a complete report to the Committee on Science and*  
10 *the Committee on Appropriations of the House of Rep-*  
11 *resentatives, and to the Committee on Energy and Natural*  
12 *Resources and the Committee on Appropriations of the Sen-*  
13 *ate, explaining the project and the reasons for the estimate*  
14 *or revision.*

15 **SEC. 7. LIMITS ON CONSTRUCTION PROJECTS.**

16 *(a) LIMITATION.—Except as provided in subsection*  
17 *(b), construction on a civilian energy or scientific research,*  
18 *development, and demonstration or commercial application*  
19 *of energy technology project of the Department for which*  
20 *funding has been specifically provided by law may not be*  
21 *started, and additional obligations may not be incurred in*  
22 *connection with the project above the authorized funding*  
23 *amount, whenever the current estimated cost of the construc-*  
24 *tion project exceeds by more than 10 percent the higher of—*

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

1           (2) *the amount of the total estimated cost for the*  
2           *project as shown in the most recent budget justifica-*  
3           *tion data submitted to Congress.*

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

6           (1) *the Secretary has submitted to the Committee*  
7           *on Science and the Committee on Appropriations of*  
8           *the House of Representatives, and to the Committee*  
9           *on Energy and Natural Resources and the Committee*  
10           *on Appropriations of the Senate, a report on the pro-*  
11           *posed actions and the circumstances making such ac-*  
12           *tions necessary; and*

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

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

20           (d) *EXCEPTION.—Subsections (a) and (b) shall not*  
21           *apply to any construction project which has a current esti-*  
22           *mated cost of less than \$2,000,000.*

1 **SEC. 8. AUTHORITY FOR CONCEPTUAL AND CONSTRUCTION**

2 **DESIGN.**

3 (a) *REQUIREMENT FOR CONCEPTUAL DESIGN.*—(1)

4 *Subject to paragraph (2) and except as provided in para-*  
5 *graph (3), before submitting to Congress a request for funds*  
6 *for a construction project that is in support of a civilian*  
7 *energy or scientific research, development, and demonstra-*  
8 *tion or commercial application of energy technology pro-*  
9 *gram, project, or activity of the Department, the Secretary*  
10 *shall complete a conceptual design for that project.*

11 (2) *If the estimated cost of completing a conceptual*  
12 *design for a civilian energy or scientific research, develop-*  
13 *ment, and demonstration or commercial application of en-*  
14 *ergy technology construction project exceeds \$750,000, the*  
15 *Secretary shall submit to Congress a request for funds for*  
16 *the conceptual design before submitting a request for funds*  
17 *for the construction project.*

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

21 (b) *AUTHORITY FOR CONSTRUCTION DESIGN.*—(1) *The*  
22 *Secretary may carry out construction design (including ar-*  
23 *chitectural and engineering services) in connection with*  
24 *any proposed construction project that is in support of a*  
25 *civilian energy or scientific research, development, and*  
26 *demonstration or commercial application of energy tech-*

1 nology program of the Department if the total estimated  
2 cost for such design does not exceed \$250,000.

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

7 **SEC. 9. LIMITS ON USE OF FUNDS.**

8 (a) **CLEAN COAL TECHNOLOGY RESERVE.**—No funds  
9 in the Clean Coal Technology Reserve may be used to ini-  
10 tiate or carry out a clean coal technology energy demonstra-  
11 tion project based outside the United States.

12 (b) **TRAVEL.**—Not more than 1 percent of the funds  
13 authorized by this Act may be used either directly or indi-  
14 rectly to fund travel costs of the Department or travel costs  
15 for persons awarded contracts or subcontracts by the De-  
16 partment. As part of the Department's annual budget re-  
17 quest submission to the Congress, the Secretary shall submit  
18 a report to the Committee on Science and the Committee  
19 on Appropriations of the House of Representatives, and to  
20 the Committee on Energy and Natural Resources and the  
21 Committee on Appropriations of the Senate, that  
22 identifies—

23 (1) the estimated amount of travel costs by the  
24 Department and for persons awarded contracts or  
25 subcontracts by the Department for the fiscal year of

1        *such budget submission, as well as for the 2 previous*  
2        *fiscal years;*

3                *(2) the major purposes for such travel; and*

4                *(3) the sources of funds for such travel.*

5        *(c) TRADE ASSOCIATIONS.—No funds authorized by*  
6        *this Act may be used either directly or indirectly to fund*  
7        *a grant, contract, subcontract, or any other form of finan-*  
8        *cial assistance awarded by the Department to a trade asso-*  
9        *ciation on a noncompetitive basis. As part of the Depart-*  
10       *ment’s annual budget request submission to the Congress,*  
11       *the Secretary shall submit a report to the Committee on*  
12       *Science and the Committee on Appropriations of the House*  
13       *of Representatives, and to the Committee on Energy and*  
14       *Natural Resources and the Committee on Appropriations*  
15       *of the Senate, that identifies—*

16                *(1) the estimated amount of funds provided by*  
17        *the Department to trade associations, by trade asso-*  
18        *ciation, for the fiscal year of such budget submission,*  
19        *as well as for the 2 previous fiscal years;*

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

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

1 **SEC. 10. MANAGEMENT AND OPERATING CONTRACTS.**

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

11       (b) *CONGRESSIONAL NOTICE.*—At least 60 days before  
12 a contract award, amendment, or modification for which  
13 the Secretary intends to grant such a waiver, the Secretary  
14 shall submit to the Committee on Science and the Com-  
15 mittee on Appropriations of the House of Representatives,  
16 and to the Committee on Energy and Natural Resources  
17 and the Committee on Appropriations of the Senate, a re-  
18 port notifying the committees of the waiver and setting  
19 forth the reasons for the waiver.

20 **SEC. 11. FEDERAL ACQUISITION REGULATION.**

21       (a) *REQUIREMENT.*—None of the funds authorized to  
22 be appropriated by this Act or any prior Act for any com-  
23 mercial application of energy technology or civilian energy  
24 or scientific research, development, and demonstration or  
25 commercial application of energy technology programs,  
26 projects, and activities may be used to award, amend, or

1 *modify a contract of the Department in a manner that devi-*  
2 *ates from the Federal Acquisition Regulation, unless the*  
3 *Secretary grants, on a case-by-case basis, a waiver to allow*  
4 *for such a deviation. The Secretary may not delegate the*  
5 *authority to grant such a waiver.*

6 (b) *CONGRESSIONAL NOTICE.—At least 60 days before*  
7 *a contract award, amendment, or modification for which*  
8 *the Secretary intends to grant such a waiver, the Secretary*  
9 *shall submit to the Committee on Science and the Com-*  
10 *mittee on Appropriations of the House of Representatives,*  
11 *and to the Committee on Energy and Natural Resources*  
12 *and the Committee on Appropriations of the Senate, a re-*  
13 *port notifying the committees of the waiver and setting*  
14 *forth the reasons for the waiver.*

15 **SEC. 12. REQUESTS FOR PROPOSALS.**

16 *None of the funds authorized to be appropriated by this*  
17 *Act or any prior Act may be used by the Department to*  
18 *prepare or initiate Requests for Proposals (RFPs) for a ci-*  
19 *vilian energy or scientific research, development, and dem-*  
20 *onstration or commercial application of energy technology*  
21 *program, project, or activity if the program, project, or ac-*  
22 *tivity has not been specifically authorized by Congress.*

1 **SEC. 13. PRODUCTION OR PROVISION OF ARTICLES OR**  
2 **SERVICES.**

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

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

17 **SEC. 14. ELIGIBILITY FOR AWARDS.**

18       (a) *IN GENERAL.*—The Secretary shall exclude from  
19 consideration for grant agreements for civilian energy or  
20 scientific research, development, and demonstration or com-  
21 mercial application of energy technology activities made by  
22 the Department after fiscal year 1999 any person who re-  
23 ceived funds, other than those described in subsection (b),  
24 appropriated for a fiscal year after fiscal year 1999, under  
25 a grant agreement from any Federal funding source for a  
26 program, project, or activity that was not subjected to a



1 competitive, merit-based award process, except as specifi-  
2 cally authorized by this Act. Any exclusion from consider-  
3 ation pursuant to this section shall be effective for a period  
4 of 5 years after the person receives such Federal funds.

5 (b) *EXCEPTION.*—Subsection (a) shall not apply to the  
6 receipt of Federal funds by a person due to the membership  
7 of that person in a class specified by law for which assist-  
8 ance is awarded to members of the class according to a for-  
9 mula provided by law or under circumstances permitting  
10 other than full and open competition under the Federal Ac-  
11 quisition Regulation.

12 (c) *DEFINITION.*—For purposes of this section, the  
13 term “grant agreement” means a legal instrument whose  
14 principal purpose is to transfer a thing of value to the re-  
15 cipient to carry out a public purpose of support or stimula-  
16 tion authorized by a law of the United States, and does  
17 not include the acquisition (by purchase, lease, or barter)  
18 of property or services for the direct benefit or use of the  
19 United States Government. Such term does not include a  
20 cooperative agreement (as such term is used in section 6305  
21 of title 31, United States Code) or a cooperative research  
22 and development agreement (as such term is defined in sec-  
23 tion 12(d)(1) of the Stevenson-Wydler Technology Innova-  
24 tion Act of 1980 (15 U.S.C. 3710a(d)(1))).

1 **SEC. 15. EXTERNAL REGULATION.**

2 (a) *AUTHORITY.*—

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

12 (2) *EXCEPTION.*—*Notwithstanding paragraph*  
13 *(1), the Department shall retain regulatory or en-*  
14 *forcement authority described in paragraph (1) at*  
15 *any federally owned or operated nonmilitary energy*  
16 *laboratory to the extent that no other Federal, State,*  
17 *or local governmental agency has such regulatory or*  
18 *enforcement authority.*

19 (b) *NUCLEAR REGULATORY COMMISSION AUTHOR-*  
20 *ITY.*—

21 (1) *ENFORCEMENT RESPONSIBILITIES.*—*Effective*  
22 *January 1, 2000, the Nuclear Regulatory Commission*  
23 *shall assume the regulatory and enforcement respon-*  
24 *sibilities of the Department under the Atomic Energy*  
25 *Act of 1954 with regard to federally owned or oper-*  
26 *ated nonmilitary energy laboratories, including such*

1        *responsibilities with respect to accelerator-produced*  
2        *radioactive material and ionizing radiation gener-*  
3        *ating machines.*

4            (2) *LICENSED ENTITY.*—*For the purposes of car-*  
5        *rying out at federally owned or operated nonmilitary*  
6        *energy laboratories regulatory and enforcement re-*  
7        *sponsibilities described in paragraph (1), the Nuclear*  
8        *Regulatory Commission may regulate and license or*  
9        *provide certification for the Department, the Depart-*  
10       *ment's contractor, or both.*

11           (3) *DECOMMISSIONING.*—*A contractor operating*  
12       *a federally owned nonmilitary energy laboratory shall*  
13       *not be responsible for the costs of decommissioning*  
14       *that facility. No enforcement action may be taken*  
15       *against such contractor for any violation of Nuclear*  
16       *Regulatory Commission decommissioning require-*  
17       *ments, if such violation is the result of a failure of*  
18       *the Department to authorize or fund decommissioning*  
19       *activities. The Nuclear Regulatory Commission and*  
20       *the Department shall, not later than July 1, 2000,*  
21       *enter into a memorandum of understanding estab-*  
22       *lishing decommissioning procedures and requirements*  
23       *for federally owned or operated nonmilitary energy*  
24       *laboratories.*

25           (c) *OCCUPATIONAL SAFETY AND HEALTH.*—

1           (1) *OSHA JURISDICTION.*—Notwithstanding any  
2           other provision of law, effective January 1, 2000, the  
3           Occupational Safety and Health Administration shall  
4           assume the regulatory and enforcement responsibil-  
5           ities of the Department relating to matters covered by  
6           the Occupational Safety and Health Act of 1970 with  
7           regard to all federally owned or operated nonmilitary  
8           energy laboratories. The Department’s contractor or  
9           contractors operating those laboratories shall be con-  
10          sidered employers for purposes of the Occupational  
11          Safety and Health Act of 1970.

12          (2) *APPLICABILITY.*—Section 4(b)(1) of the Occu-  
13          pational Safety and Health Act of 1970 (29 U.S.C.  
14          653(b)(1)) does not apply with respect to the Depart-  
15          ment’s regulation, or the Nuclear Regulatory Commis-  
16          sion’s regulation, of federally owned or operated non-  
17          military energy laboratories.

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

1           (4) *MEMORANDUM OF UNDERSTANDING.—The*  
2       *Nuclear Regulatory Commission and the Occupa-*  
3       *tional Safety and Health Administration shall, with-*  
4       *in 90 days after the date of the enactment of this Act,*  
5       *enter into a memorandum of understanding to govern*  
6       *the exercise of their respective authorities over occupa-*  
7       *tional safety and health hazards at federally owned or*  
8       *operated nonmilitary energy laboratories.*

9       (d) *CIVIL PENALTIES.—The Department’s contractor*  
10      *operating a federally owned or operated nonmilitary energy*  
11      *laboratory shall not be liable for civil penalties under the*  
12      *Atomic Energy Act of 1954 or the Occupational Safety and*  
13      *Health Act of 1970 for any actions taken before October*  
14      *1, 2000, pursuant to the transfer of regulatory and enforce-*  
15      *ment responsibilities required by this section.*

16      (e) *INDEMNIFICATION.—The Secretary shall continue*  
17      *to indemnify federally owned or operated nonmilitary en-*  
18      *ergy laboratories in accordance with the provisions of sec-*  
19      *tion 170d. of the Atomic Energy Act of 1954.*

20      (f) *DEPARTMENT OF ENERGY REPORTING REQUIRE-*  
21      *MENT.—By October 31, 1999, the Secretary shall transmit*  
22      *to the Committee on Science and the Committee on Appro-*  
23      *priations of the House of Representatives, and the Com-*  
24      *mittee on Energy and Natural Resources and the Com-*  
25      *mittee on Appropriations of the Senate, a plan for the ter-*

1 mination of the Department's regulatory and enforcement  
2 responsibilities for federally owned or operated nonmilitary  
3 energy laboratories required by this section. The report shall  
4 include—

5           (1) a detailed transition plan, drafted in coordi-  
6 nation with the Nuclear Regulatory Commission and  
7 the Occupational Safety and Health Administration,  
8 giving the schedule for termination of self-regulation  
9 authority as outlined in subsection (a), including the  
10 activities to be coordinated with the Nuclear Regu-  
11 latory Commission and the Occupational Safety and  
12 Health Administration;

13           (2) a description of any issues remaining to be  
14 resolved with the Nuclear Regulatory Commission, the  
15 Occupational Safety and Health Administration, or  
16 other external regulators, and a timetable for resolv-  
17 ing such issues before January 1, 2000;

18           (3) an estimate of—

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

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

1           (C) the cost of external regulation based on  
 2           the pilot projects of simulated Nuclear Regu-  
 3           latory Commission regulation which have al-  
 4           ready been conducted; and

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

8           (4) a description of regulatory or enforcement  
 9           authorities the Department determines it will be re-  
 10          quired to retain pursuant to subsection (a)(2).

11 **SEC. 16. INTERNET AVAILABILITY OF INFORMATION.**

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

18 **SEC. 17. MORATORIUM ON FOREIGN VISITORS PROGRAM.**

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

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

1           (2) *any facility of a laboratory owned by the De-*  
2           *partment for the purposes of conducting activities re-*  
3           *lated to any of the sensitive subjects listed in part 1*  
4           *of Appendix 4 of the February 1997 document enti-*  
5           *tled “Guidelines on Export Control and Nonprolifera-*  
6           *tion”, issued by the Nuclear Transfer and Supplier*  
7           *Policy Division of the Office of Arms Control and*  
8           *Nonproliferation of the Office of Nonproliferation and*  
9           *National Security of the Department.*

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

16       (2) *Not later than 30 days after granting a waiver*  
17       *under paragraph (1), the Secretary shall transmit to the*  
18       *committees described in subsection (e) a report in writing*  
19       *regarding the waiver. The report shall identify each indi-*  
20       *vidual for whom such a waiver is granted and, with respect*  
21       *to each such individual, provide a detailed justification for*  
22       *the waiver and the Secretary’s certification that the admis-*  
23       *sion of that individual to a laboratory owned by the De-*  
24       *partment is necessary for the national security of the*  
25       *United States.*



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

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

9               (1) *all of the applicable counterintelligence and*  
10 *safeguards and security measures contained in Presi-*  
11 *dential Decision Directive 61 have been fully imple-*  
12 *mented at the laboratory, and that adequate oversight*  
13 *and resources exist to ensure that they are properly*  
14 *followed;*

15              (2) *all of the additional applicable counterintel-*  
16 *ligence and safeguards and security measures an-*  
17 *nounced by the Secretary on March 17, 1999, and*  
18 *March 31, 1999, have been fully implemented at the*  
19 *laboratory, and that adequate oversight and resources*  
20 *exist to ensure that they are appropriately followed;*  
21 *and*

22              (3) *all of the guidelines in February 1997 docu-*  
23 *ment entitled “Guidelines on Export Control and*  
24 *Nonproliferation”, issued by the Nuclear Transfer and*  
25 *Supplier Policy Division of the Office of Arms Con-*

1        *trol and Nonproliferation of the Office of Non-*  
2        *proliferation and National Security of the Depart-*  
3        *ment are being followed with respect to all activities*  
4        *at the laboratory.*

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

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

16                *(A) a description of the status of counterintel-*  
17        *ligence and safeguards and security at each of the lab-*  
18        *oratories owned by the Department;*

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

21                *(C) a net assessment of the foreign visitors pro-*  
22        *gram at the laboratories owned by the Department,*  
23        *prepared by a panel of individuals with expertise in*  
24        *intelligence, counterintelligence, and nuclear weapons*  
25        *design matters.*

1       (e) *COMMITTEES.*—*The Committees referred to in this*  
 2 *section are the Committee on Armed Services, the Com-*  
 3 *mittee on Appropriations, the Committee on Commerce,*  
 4 *Science, and Transportation, the Committee on Energy and*  
 5 *Natural Resources, and the Select Committee on Intelligence*  
 6 *of the Senate, and the Committee on Armed Services, the*  
 7 *Committee on Appropriations, the Committee on Com-*  
 8 *merce, the Committee on Science, and the Permanent Select*  
 9 *Committee on Intelligence of the House of Representatives.*

10 **SEC. 18. TECHNOLOGY TRANSFER COORDINATION.**

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

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

17               (2) *the availability to aggrieved private sector*  
 18               *entities on request of binding alternative dispute reso-*  
 19               *lution, nonbinding alternative dispute resolution, me-*  
 20               *diation, negotiation between authorized representa-*  
 21               *tives of the disputing parties, or resolution by the De-*  
 22               *partment's site contracting officer to resolve disputes*  
 23               *regarding all technology transfer and intellectual*  
 24               *property matters, with costs and damages to be pro-*

1        *vided for by the contractor to the extent that any such*  
 2        *resolution attributes fault to the contractor;*

3            *(3) annual reports to the Secretary, as part of*  
 4        *the annual performance evaluation, on technology*  
 5        *transfer and intellectual property successes, current*  
 6        *technology transfer and intellectual property disputes*  
 7        *involving the laboratory, and progress toward resolv-*  
 8        *ing those disputes; and*

9            *(4) training to ensure that laboratory personnel*  
 10        *responsible for patenting, licensing, and commer-*  
 11        *cialization activities are knowledgeable of the appro-*  
 12        *priate legal, procedural, and ethical issues necessary*  
 13        *to carry out those activities with the highest possible*  
 14        *professional and ethical standards.*

15    **SEC. 19. DEPARTMENT OF ENERGY REGULATIONS RELAT-**  
 16                    **ING TO THE SAFEGUARDING AND SECURITY**  
 17                    **OF RESTRICTED DATA.**

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

21            **“SEC. 234B. CIVIL MONETARY PENALTIES FOR VIOLA-**  
 22        **TIONS OF DEPARTMENT OF ENERGY REGULATIONS RE-**  
 23        **GARDING SECURITY OF CLASSIFIED OR SENSITIVE INFOR-**  
 24        **MATION OR DATA.—**

1       *“a. Any person who has entered into a contract or*  
2 *agreement with the Department of Energy, or a subcontract*  
3 *or subagreement thereto, and who violates (or whose em-*  
4 *ployee violates) any applicable rule, regulation, or order*  
5 *prescribed or otherwise issued by the Secretary pursuant*  
6 *to this Act relating to the safeguarding or security of Re-*  
7 *stricted Data or other classified or sensitive information*  
8 *shall be subject to a civil penalty of not to exceed \$100,000*  
9 *for each such violation.*

10       *“b. The Secretary shall include in each contract with*  
11 *a contractor of the Department provisions which provide*  
12 *an appropriate reduction in the fees or amounts paid to*  
13 *the contractor under the contract in the event of a violation*  
14 *by the contractor or contractor employee of any rule, regula-*  
15 *tion, or order relating to the safeguarding or security of*  
16 *Restricted Data or other classified or sensitive information.*  
17 *The provisions shall specify various degrees of violations*  
18 *and the amount of the reduction attributable to each degree*  
19 *of violation.*

20       *“c. The powers and limitations applicable to the as-*  
21 *essment of civil penalties under section 234A, except for*  
22 *subsection d. of that section, shall apply to the assessment*  
23 *of civil penalties under this section.”.*

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

4       (c) *CLERICAL AMENDMENT.*—*The table of sections for*  
 5 *that Act is amended by inserting after the item relating*  
 6 *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.*”.

7   **SEC. 20. WHISTLEBLOWER PROTECTION.**

8       (a) *PROGRAM.*—*The Secretary shall establish a pro-*  
 9 *gram to ensure that an employee of the Department, or a*  
 10 *contractor employee, may not be discharged, demoted, or*  
 11 *otherwise discriminated against as a reprisal for disclosing*  
 12 *to a person or entity referred to in subsection (b) informa-*  
 13 *tion which the employee or contractor employee reasonably*  
 14 *believes to provide direct and specific evidence of a violation*  
 15 *described in subsection (c).*

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

18               (1) *A Member of Congress.*

19               (2) *An employee of Congress who has an appro-*  
 20 *prate security clearance for access to the information.*

21               (3) *The Inspector General of the Department.*

22               (4) *The Federal Bureau of Investigation.*

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

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

6                   (1) *a violation of law or Federal regulation;*

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

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

11   **SEC. 21. INVESTIGATION AND REMEDIATION OF ALLEGED**  
 12                   **REPRISALS FOR DISCLOSURE OF CERTAIN IN-**  
 13                   **FORMATION TO CONGRESS.**

14           (a) *SUBMITTAL OF ALLEGATIONS TO INSPECTOR GEN-*  
 15           *ERAL.*—*A Department employee or contractor employee*  
 16           *who believes that the employee has been discharged, de-*  
 17           *moted, or otherwise discriminated against as a reprisal for*  
 18           *disclosing information referred to in subsection (a) of sec-*  
 19           *tion 20 in accordance with the provisions of that section*  
 20           *may submit a complaint relating to such action to the In-*  
 21           *spector General of the Department.*

22           (b) *INVESTIGATION.*—(1) *For each complaint sub-*  
 23           *mitted under subsection (a), the Inspector General shall—*

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

1           (B) if the Inspector General determines the com-  
 2           plaint is not frivolous, conduct an investigation of the  
 3           complaint.

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

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

8           (B) the contractor concerned, if any; and

9           (C) the Secretary.

10          (c) REMEDIAL ACTIONS.—(1) If the Secretary deter-  
 11          mines that an employee has been subjected to an adverse  
 12          personnel action referred to in subsection (a) in contraven-  
 13          tion of the provisions of section 20(a), the Secretary shall—

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

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

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

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



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

10       (2) *A report under paragraph (1) shall not identify*  
11 *or otherwise provide any information on a person submit-*  
12 *ting a complaint under this section without the consent of*  
13 *the person.*

Union Calendar No. 367

106TH CONGRESS  
2D SESSION

**H. R. 1656**

**[Report No. 106–492, Part I]**

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## **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.

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JUNE 9, 2000

Committees on Commerce, and Education and the Workforce, discharged; committed to the Committee of the Whole House on the State of the Union and ordered to be printed