

103D CONGRESS  
1ST SESSION

# H. R. 1300

To establish a Department of Science, Space, Energy, and Technology.

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IN THE HOUSE OF REPRESENTATIVES

MARCH 10, 1993

Mr. WALKER (for himself and Mr. BROWN of California) introduced the following bill; which was referred to the Committee on Government Operations

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## A BILL

To establish a Department of Science, Space, Energy, and Technology.

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

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

4 (a) SHORT TITLE.—This Act may be cited as the  
5 “Department of Science, Space, Energy, and Technology  
6 Organization Act of 1993”.

7 (b) TABLE OF CONTENTS.—

### TITLE I—GENERAL PROVISIONS

Sec. 101. Findings.

Sec. 102. Definitions.

### TITLE II—ESTABLISHMENT OF THE DEPARTMENT

Sec. 201. Establishment.

Sec. 202. Principal officers.

## TITLE III—TRANSFERS OF AGENCIES AND FUNCTIONS

- Sec. 301. Transfer of the National Aeronautics and Space Administration.
- Sec. 302. Transfer of the National Institute of Standards and Technology.
- Sec. 303. Transfer of the National Science Foundation.
- Sec. 304. Transfer of the National Oceanic and Atmospheric Administration.
- Sec. 305. Transfer of the Environmental Protection Agency.
- Sec. 306. Transfer of the National Technical Information Service.
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## TITLE IV—ADMINISTRATIVE PROVISIONS

## Subtitle A—Personnel Provisions

- Sec. 401. Officers and employees.
- Sec. 402. Experts and consultants.
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- Sec. 415. Contracts.
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- Sec. 418. Use of facilities.
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- Sec. 420. Gifts and bequests.
- Sec. 421. Technical advice.
- Sec. 422. Working capital fund.
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- Sec. 424. Seal of department.
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## TITLE V—TRANSITIONAL, SAVINGS, AND CONFORMING PROVISIONS

- Sec. 501. Transfer and allocation of appropriations and personnel.
- Sec. 502. Effect on personnel.
- Sec. 503. Agency terminations.
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- Sec. 508. Transition.
- Sec. 509. Interim appointments.

# 1 **TITLE I—GENERAL PROVISIONS**

## 2 **SEC. 101. FINDINGS.**

3 The Congress finds that—

4 (1) the advancement of science and technology  
5 is a vital national goal which is essential for the con-  
6 tinued economic well being of the United States;

7 (2) the creation of new scientific information  
8 and technological development are generators of new  
9 wealth and jobs;

10 (3) consolidation of the Federal agencies which  
11 conduct and support science and technology activi-  
12 ties will focus the resources of the Federal Govern-  
13 ment and will lead to better coordination of the over-  
14 all effort of those agencies to carry out the research  
15 and development objectives of the United States;

16 (4) the elimination of duplication of functions  
17 within the scientific and technical agencies of the  
18 Federal Government will lead to cost savings for the  
19 Government; and

20 (5) the creation of the Department of Science,  
21 Space, Energy, and Technology will increase the dis-  
22 semination of technology through the improved co-  
23 ordination of technology transfer from the Federal  
24 Government to the private sector.

1 **SEC. 102. DEFINITIONS.**

2 As used in this Act, unless otherwise provided or indi-  
3 cated by the context—

4 (1) the term “Department” means the Depart-  
5 ment of Science, Space, Energy, and Technology;

6 (2) the term “Secretary” means the Secretary  
7 of Science, Space, Energy, and Technology;

8 (3) the term “Deputy Secretary” means the  
9 Deputy Secretary of Science, Space, Energy, and  
10 Technology;

11 (4) the term “function” includes any duty, obli-  
12 gation, power, authority, responsibility, right, privi-  
13 lege, activity, or program; and

14 (5) the term “office” includes any office, insti-  
15 tute, council, unit, or organizational entity, or any  
16 component thereof.

17 **TITLE II—ESTABLISHMENT OF**  
18 **THE DEPARTMENT**

19 **SEC. 201. ESTABLISHMENT.**

20 There is authorized an executive department to be  
21 known as the Department of Science, Space, Energy, and  
22 Technology. The Department shall be administered, in ac-  
23 cordance with the provisions of this Act, under the super-  
24 vision and direction of a Secretary of Science, Space, En-  
25 ergy, and Technology. The Secretary shall be appointed  
26 by the President, by and with the advice and consent of

1 the Senate. The Secretary shall receive basic pay at the  
2 rate payable for level I of the Executive Schedule under  
3 section 5312 of title 5, United States Code.

4 **SEC. 202. PRINCIPAL OFFICERS.**

5 (a) DEPUTY SECRETARY.—(1) There shall be in the  
6 Department a Deputy Secretary of Science, Space, En-  
7 ergy, and Technology who shall be appointed by the Presi-  
8 dent, by and with the advice and consent of the Senate.  
9 During the absence or disability of the Secretary, or in  
10 the event of a vacancy in the office of the Secretary, the  
11 Deputy Secretary shall act as Secretary. The Secretary  
12 shall designate the order in which other officials of the  
13 Department shall act for and perform the functions of the  
14 Secretary during the absence or disability of both the Sec-  
15 retary and Deputy Secretary or in the event of vacancies  
16 in both of those offices. The Deputy Secretary shall receive  
17 basic pay at the rate payable for level II of the Executive  
18 Schedule under section 5313 of title 5, United States  
19 Code.

20 (2) The Deputy Secretary shall perform such other  
21 duties and exercise such powers as the Secretary may from  
22 time to time prescribe.

23 (b) UNDER SECRETARIES.—(1) There shall be in the  
24 Department—

1           (A) an Under Secretary of Research who shall,  
2           on the transfer of functions and offices under title  
3           III, serve as the Director of the National Science  
4           Foundation;

5           (B) an Under Secretary of Technology who  
6           shall, on the transfer of functions and offices under  
7           title III, serve as the Administrator of the National  
8           Institute of Standards and Technology, the National  
9           Technical Information Service, and the National  
10          Telecommunications and Information Administra-  
11          tion;

12          (C) an Under Secretary of Energy who shall, on  
13          the transfer of functions and offices under title III,  
14          serve as the Administrator of the National Energy  
15          Administration;

16          (D) an Under Secretary of Space who shall, on  
17          the transfer of functions and offices under title III,  
18          serve as the Administrator of the National Aero-  
19          nautics and Space Administration; and

20          (E) an Under Secretary of Environment who  
21          shall, on the transfer of functions and offices under  
22          title III, serve as the Administrator of the Environ-  
23          mental Protection Agency and the National Oceanic  
24          and Atmospheric Administration.

1           (2) Each of the Under Secretaries shall be appointed  
2 by the President, by and with the advice and consent of  
3 the Senate. The Under Secretaries shall receive basic pay  
4 at the rate payable for level III of the Executive Schedule  
5 under section 5314 of title 5, United States Code.

6           (c) ASSISTANT SECRETARIES.—(1) There shall be as  
7 many as 20 Assistant Secretaries in the Department.  
8 Among the Assistant Secretaries shall be—

9                   (A) an Assistant Secretary for Administration  
10 who shall serve as the Chief Financial Officer of the  
11 Department;

12                   (B) an Assistant Secretary for Policy and  
13 Budget;

14                   (C) an Assistant Secretary for Congressional  
15 and Intergovernmental Affairs;

16                   (D) an Assistant Secretary for Technology  
17 Transfer and Commercial Programs; and

18                   (E) an Assistant Secretary for International  
19 Programs.

20           (2) Each of the Assistant Secretaries shall be ap-  
21 pointed by the President, by and with the advice and con-  
22 sent of the Senate. The Assistant Secretaries shall receive  
23 basic pay at the rate payable for level IV of the Executive  
24 Schedule under section 5315 of title 5, United States  
25 Code.

1       (d) GENERAL COUNSEL.—There shall be in the De-  
2       partment a General Counsel who shall administer the Of-  
3       fice of General Counsel. The General Counsel shall be ap-  
4       pointed by the President, by and with the advice and con-  
5       sent of the Senate. The General Counsel shall receive basic  
6       pay at the rate payable for level IV of the Executive  
7       Schedule under section 5315 of title 5, United States  
8       Code.

9       (e) INSPECTOR GENERAL.—There shall be in the De-  
10      partment an Inspector General appointed in accordance  
11      with the Inspector General Act of 1978. The Inspector  
12      General shall receive basic pay at the rate payable for level  
13      IV of the Executive Schedule under section 5315 of title  
14      5, United States Code.

15      (f) ADDITIONAL OFFICERS.—In addition to the offi-  
16      cers specified in subsections (a) through (e) and the 24  
17      members of the Board of Directors of the National Science  
18      Foundation, there shall be in the Department not more  
19      than 10 additional officers who shall be appointed by the  
20      President, by and with the advice and consent of the Sen-  
21      ate. The officers appointed under this subsection shall per-  
22      form such functions as the Secretary shall prescribe.

23      (g) SPECIFICATION OF FUNCTIONS.—Whenever the  
24      President submits the name of an individual to the Senate  
25      for confirmation as an officer of the Department under

1 this section, the President shall state the particular func-  
2 tions of the Department such individual will exercise upon  
3 taking office, consistent with the requirements of this Act.

4 (h) LINE OF AUTHORITY; ADDITIONAL FUNC-  
5 TIONS.—Each officer of the Department referred to in  
6 subsections (a) through (f) shall report directly to the Sec-  
7 retary and shall, in addition to any functions vested in  
8 or required to be delegated to such officer, perform such  
9 additional functions as the Secretary may prescribe.

## 10 **TITLE III—TRANSFERS OF** 11 **FUNCTIONS AND OFFICES**

### 12 **SEC. 301. TRANSFER OF THE NATIONAL AERONAUTICS AND** 13 **SPACE ADMINISTRATION.**

14 There is transferred to the Department the National  
15 Aeronautics and Space Administration, along with all of  
16 its functions and offices.

### 17 **SEC. 302. TRANSFER OF THE NATIONAL INSTITUTE OF** 18 **STANDARDS AND TECHNOLOGY.**

19 There is transferred to the Department the National  
20 Institute of Standards and Technology, along with all of  
21 its functions and offices.

1 **SEC. 303. TRANSFER OF THE NATIONAL SCIENCE FOUNDA-**  
2 **TION.**

3 There is transferred to the Department the National  
4 Science Foundation, along with all of its functions and  
5 offices.

6 **SEC. 304. TRANSFER OF THE NATIONAL OCEANIC AND AT-**  
7 **MOSPHERIC ADMINISTRATION.**

8 There is transferred to the Department the National  
9 Oceanic and Atmospheric Administration, along with all  
10 of its functions and offices.

11 **SEC. 305. TRANSFER OF THE ENVIRONMENTAL PROTEC-**  
12 **TION AGENCY.**

13 There is transferred to the Department the Environ-  
14 mental Protection Agency, along with all of its functions  
15 and offices.

16 **SEC. 306. TRANSFER OF THE NATIONAL TECHNICAL INFOR-**  
17 **MATION SERVICE.**

18 There is transferred to the Department the National  
19 Technical Information Service, along with all of its func-  
20 tions and offices.

21 **SEC. 307. TRANSFER OF THE DEPARTMENT OF ENERGY.**

22 There is transferred to the Department the Depart-  
23 ment of Energy, which shall be renamed the National En-  
24 ergy Administration, along with all of its functions and  
25 offices, except for the following facilities, which shall be  
26 transferred to the Department of Defense:

1           (1) The Feed Materials Production Center at  
2           Fernald, Ohio.

3           (2) The Extrusion Plant at Ashtabula, Ohio.

4           (3) The Savannah River Plant, including the  
5           Savannah River Weapons Facility, at Aiken, South  
6           Carolina.

7           (4) The Hanford Production Operations at  
8           Richland, Washington.

9           (5) The Nevada Test Site.

10          (6) The Kansas City Plant at Kansas City,  
11          Missouri.

12          (7) The Rocky Flats Plant located between  
13          Golden and Boulder, Colorado.

14          (8) The Pantex Plant located near Amarillo,  
15          Texas.

16          (9) The Pinellas Plant at St. Petersburg, Flor-  
17          ida.

18          (10) The Mound Facility at Miamisburg, Ohio.

19          (11) The Y-12 Plant at Oak Ridge, Tennessee.

20 **SEC. 308. TRANSFER OF THE NATIONAL TELECOMMUNI-**  
21 **CATIONS AND INFORMATION ADMINISTRA-**  
22 **TION.**

23          There is transferred to the Department the National  
24          Telecommunications and Information Administration,  
25          along with all of its functions and offices.

1 **SEC. 309. EFFECTIVE DATE.**

2 This title shall take effect—

3 (1) 180 days after the first Secretary takes of-  
4 fice under section 201; or

5 (2) on any date earlier than the date described  
6 in paragraph (1), but later than September 30,  
7 1994, that the President designates through publica-  
8 tion in the Federal Register.

9 **TITLE IV—ADMINISTRATIVE**  
10 **PROVISIONS**

11 **Subtitle A—Personnel Provisions**

12 **SEC. 401. OFFICERS AND EMPLOYEES.**

13 (a) GENERAL AUTHORITY.—The Secretary is author-  
14 ized to appoint and fix the compensation of such officers  
15 and employees as may be necessary to carry out the func-  
16 tions of the Secretary and the Department. Except as oth-  
17 erwise provided by law, such officers and employees shall  
18 be appointed in accordance with the civil service laws and  
19 their compensation fixed in accordance with title 5 of the  
20 United States Code.

21 (b) TEMPORARY SUPER GRADE AND TECHNICAL PO-  
22 SITIONS.—(1)(A) At the request of the Secretary, the Di-  
23 rector of the Office of Personnel Management shall, under  
24 section 5108 of title 5, United States Code, provide for  
25 the establishment in each of the grade levels GS-16, GS-  
26 17, and GS-18 of a number of positions in the Depart-

1 ment equal to the number of positions in that grade level  
2 which were used primarily for the performance of func-  
3 tions and offices transferred under title III and which  
4 were assigned and filled on the day before such transfer.

5 (B) Appointments to positions provided for under  
6 this paragraph may be made without regard to the provi-  
7 sions of section 3324 of title 5, United States Code, if  
8 the individual appointed in such position is an individual  
9 who is transferred in connection with the transfer of func-  
10 tions and offices under title III and, on the day before  
11 such transfer, holds a position and has duties comparable  
12 to those of the position to which appointed hereunder.

13 (2) At the request of the Secretary, the Director of  
14 the Office of Personnel Management shall, under section  
15 3104 of title 5, United States Code, provide for the estab-  
16 lishment in the Department of a number of scientific and  
17 professional positions outside of the General Schedule  
18 equal to the number of such positions which were used  
19 primarily for the performance of functions and offices  
20 transferred under title III and which were assigned and  
21 filled on the day before such transfer.

22 (3) The authority under this subsection with respect  
23 to any position shall terminate when the person first ap-  
24 pointed to fill such position ceases to hold such position.

1       (4) For purposes of section 414(a)(3)(A) of the Civil  
2 Service Reform Act of 1978, an individual appointed  
3 under this subsection shall be deemed to occupy the same  
4 position as the individual occupied on the day before the  
5 transfer of functions and offices under title III.

6       (c) TRANSITIONAL SENIOR EXECUTIVE SERVICE PO-  
7 SITIONS.—Notwithstanding any other provision of law, the  
8 Director of the Office of Personnel Management shall es-  
9 tablish positions within the Senior Executive Service for  
10 5 limited-term appointees. The Secretary shall appoint in-  
11 dividuals to such positions as provided by section 3394  
12 of title 5, United States Code. Such positions shall expire  
13 on the later of 3 years after the date of the transfer of  
14 functions and offices under title III or 3 years after the  
15 initial appointment to each position. Positions in effect  
16 under this subsection shall be taken into account in apply-  
17 ing the limitation on positions prescribed under section  
18 3134(e) and section 5108 of such title.

19 **SEC. 402. EXPERTS AND CONSULTANTS.**

20       The Secretary may as provided in appropriation Acts  
21 obtain the services of experts and consultants in accord-  
22 ance with the provisions of section 3109 of title 5, United  
23 States Code, and may compensate such experts and con-  
24 sultants at rates not to exceed the daily rate prescribed

1 for GS-18 of the General Schedule under subchapter III  
2 of chapter 53 of such title.

3 **SEC. 403. PERSONNEL REDUCTION.**

4 (a) FULL-TIME EMPLOYEE LIMITATIONS.—Not later  
5 than the end of the first fiscal year beginning after the  
6 date of the transfer of functions and offices under title  
7 III, the number of full-time equivalent personnel positions  
8 available for performing functions transferred to the Sec-  
9 retary or the Department under such title shall be reduced  
10 by 500.

11 (b) COMPUTATIONS.—Computations required to be  
12 made for purposes of this section shall be made on the  
13 basis of all personnel employed by the Department, includ-  
14 ing experts and consultants employed under section 3109  
15 of title 5, United States Code, and all other part-time and  
16 full-time personnel employed to perform functions of the  
17 Secretary or the Department, except personnel employed  
18 under special programs for students and disadvantaged  
19 youth (including temporary summer employment).

20 (c) REPORT TO CONGRESS.—The Director of the Of-  
21 fice of Personnel Management shall, as soon as prac-  
22 ticable, but not later than one year after the date of the  
23 transfer of functions and offices under title III, prepare  
24 and transmit to the Congress a report on the effects on

1 employees of the reorganization under this Act, which  
2 shall include—

3 (1) an identification of any position within the  
4 Department or elsewhere in the executive branch,  
5 which it considers unnecessary due to consolidation  
6 of functions under this Act;

7 (2) a statement of the number of employees en-  
8 titled to grade or pay retention under subchapter VI  
9 of chapter 53 of title 5, United States Code, by rea-  
10 son of the reorganization under this Act;

11 (3) a statement of the number of employees  
12 who are voluntarily or involuntarily separated by  
13 reason of such reorganization;

14 (4) an estimate of the personnel costs associ-  
15 ated with such reorganization;

16 (5) the effects of such reorganization on labor  
17 management relations; and

18 (6) such legislative and administrative rec-  
19 ommendations for improvements in personnel man-  
20 agement within the Department as the Director con-  
21 siders necessary.

1 **Subtitle B—General Administrative**  
2 **Provisions**

3 **SEC. 411. GENERAL AUTHORITY.**

4 In carrying out any function transferred by this Act,  
5 the Secretary, or any officer or employee of the Depart-  
6 ment, may exercise any authority available by law with  
7 respect to such function to the official or agency from  
8 which such function is transferred, and the actions of the  
9 Secretary in exercising such authority shall have the same  
10 force and effect as when exercised by such official or agen-  
11 cy.

12 **SEC. 412. DELEGATION.**

13 Except as otherwise provided in this Act, the Sec-  
14 retary may delegate any function to such officers and em-  
15 ployees of the Department as the Secretary may designate,  
16 and may authorize such successive redelegations of such  
17 functions within the Department as may be necessary or  
18 appropriate. No delegation of functions by the Secretary  
19 under this section or under any other provision of this Act  
20 shall relieve the Secretary of responsibility for the admin-  
21 istration of such functions.

22 **SEC. 413. REORGANIZATION.**

23 (a) **AUTHORITY OF SECRETARY.**—Except as provided  
24 in subsection (b), the Secretary is authorized to allocate  
25 or reallocate functions among the officers of the Depart-

1 ment, and to establish, consolidate, alter, or abolish such  
2 offices or positions within the Department as may be nec-  
3 essary or appropriate.

4 (b) AUTHORITY WITH RESPECT TO STATUTORY EN-  
5 TITIES.—The Secretary may not—

6 (1) abolish any office or position transferred to  
7 the Department and established by statute, or any  
8 function vested by statute in such an office or an of-  
9 ficer of such an office;

10 (2) abolish any office or position established by  
11 this Act; or

12 (3) alter the delegation of functions to any spe-  
13 cific office or position required by this Act,

14 unless a period of 90 days has passed after the receipt  
15 by the Committee on Commerce, Science, and Transpor-  
16 tation of the Senate and the Committee on Science, Space,  
17 and Technology of the House of Representatives of notice  
18 given by the Secretary containing a full and complete  
19 statement of the action proposed to be taken pursuant to  
20 this subsection and the facts and circumstances relied  
21 upon in support of such proposed action.

22 **SEC. 414. REGULATIONS.**

23 The Secretary is authorized to prescribe such rules  
24 and regulations as the Secretary determines necessary or  
25 appropriate to administer and manage the functions of the

1 Secretary or the Department, in accordance with chapter  
2 5 of title 5, United States Code.

3 **SEC. 415. CONTRACTS.**

4 (a) IN GENERAL.—Subject to the Federal Property  
5 and Administrative Services Act of 1949 and other appli-  
6 cable Federal law, the Secretary is authorized to make,  
7 enter into, and perform such contracts, grants, leases, co-  
8 operative agreements, and other similar transactions with  
9 Federal or other public agencies (including State and local  
10 governments) and private organizations and persons, and  
11 to make such payments, by way of advance or reimburse-  
12 ment, as the Secretary may determine necessary or appro-  
13 priate to carry out functions of the Secretary or the De-  
14 partment.

15 (b) APPROPRIATION AUTHORITY REQUIRED.—No  
16 authority to enter into contracts or to make payments  
17 under this Act shall be effective except to such extent or  
18 in such amounts as are provided in advance under appro-  
19 priation Acts. This subsection shall not apply with respect  
20 to the authority granted under section 420.

21 **SEC. 416. REGIONAL AND FIELD OFFICES.**

22 The Secretary is authorized to establish, alter, dis-  
23 continue, or maintain such regional or other field offices  
24 as the Secretary may find necessary or appropriate to per-  
25 form functions of the Secretary or the Department.

1 **SEC. 417. ACQUISITION AND MAINTENANCE OF PROPERTY.**

2 (a) **AUTHORITY OF SECRETARY.**—To the extent nec-  
3 essary to carry out functions under this and any other  
4 Act, the Secretary is authorized to provide appropriate fa-  
5 cilities and services necessary for carrying out such func-  
6 tions or necessary for the health and welfare of the De-  
7 partment's employees, including—

8 (1) to acquire (by purchase, lease, condemna-  
9 tion, contract, or otherwise), construct, improve, re-  
10 pair, operate, maintain, and provide transportation  
11 to—

12 (A) schools and related facilities;

13 (B) laboratories;

14 (C) research and testing sites and facili-  
15 ties;

16 (D) quarters and related accommodations,  
17 including eating facilities, for employees and de-  
18 pendents of employees of the Department; and

19 (E) personal property (including patents),  
20 or any interest therein; and

21 (2) to provide reimbursement for food, clothing,  
22 medicine, and other supplies furnished by such em-  
23 ployees in emergencies for the temporary relief of  
24 distressed persons.

25 (b) **LIMITATION.**—The authority granted by sub-  
26 section (a) shall be available only with respect to facilities

1 of a special purpose nature or at a remote location that  
2 cannot readily be reassigned from similar Federal activi-  
3 ties and are not otherwise available for assignment to the  
4 Department by the Administrator of General Services.

5 **SEC. 418. USE OF FACILITIES.**

6 (a) **AUTHORITY TO USE.**—With their consent, the  
7 Secretary may, with or without reimbursement, use the  
8 research, equipment, services, and facilities of any agency  
9 or instrumentality of the United States, of any State or  
10 political subdivision thereof, or of any foreign government,  
11 in carrying out any function of the Secretary or the De-  
12 partment.

13 (b) **AUTHORITY TO PERMIT USE.**—The Secretary is  
14 authorized to permit public and private agencies, corpora-  
15 tions, associations, organizations, or individuals to use any  
16 real property, or any facilities, structures, or other im-  
17 provements thereon, under the custody and control of the  
18 Secretary for Department purposes. The Secretary shall  
19 permit the use of such property, facilities, structures, or  
20 improvements under such terms and rates and for such  
21 period as may be in the public interest, except that the  
22 periods of such uses may not exceed 5 years. The Sec-  
23 retary may require permittees under this section to recon-  
24 dition and maintain, at their own expense, the real prop-  
25 erty, facilities, structures, and improvements used by such

1 permittees to a standard satisfactory to the Secretary.  
2 This subsection shall not apply to excess property as de-  
3 fined in section 3(e) of the Federal Property and Adminis-  
4 trative Services Act of 1949.

5 (c) CREDITING OF REIMBURSEMENTS.—Proceeds  
6 from reimbursements under this section shall be deposited  
7 in a separate fund which shall be available to the Secretary  
8 without appropriation or fiscal year limitation, for carry-  
9 ing out the functions of the Secretary under this or any  
10 other Act.

11 (d) INTERESTS IN REAL PROPERTY.—Any interest in  
12 real property acquired pursuant to this Act shall be ac-  
13 quired in the name of the United States Government.

14 **SEC. 419. COPYRIGHTS AND PATENTS.**

15 (a) ACQUISITION OF RIGHTS.—The Secretary is au-  
16 thorized to acquire any of the following described rights  
17 if the rights acquired thereby are for use by or for, or  
18 useful to, the Department:

19 (1) Copyrights, patents, designs, processes, and  
20 manufacturing data.

21 (2) Licenses in connection with copyrights and  
22 patents.

23 (3) Releases for past infringement of patents or  
24 copyrights.

1 (b) DISPOSITION.—Notwithstanding subsection (a),  
2 the disposition of all copyrights and patents and other in-  
3 tellectual property owned or developed for the Department  
4 shall be governed by chapter 18 of title 35, United States  
5 Code (commonly referred to as the Bayh-Dole Act), sec-  
6 tion 12 of the Stevenson-Wydler Technology Innovation  
7 Act of 1980 (15 U.S.C. 3710(a)), the National Aero-  
8 nautics and Space Act of 1958 (42 U.S.C. 2451 et seq.),  
9 or the National Competitiveness Technology Transfer Act  
10 of 1989, as appropriate.

11 **SEC. 420. GIFTS AND BEQUESTS.**

12 The Secretary is authorized to accept, hold, admin-  
13 ister, and utilize gifts, bequests, and devises of property,  
14 both real and personal, for the purpose of aiding or facili-  
15 tating the work of the Department. Gifts, bequests, and  
16 devises of money, and proceeds from sales of other prop-  
17 erty received as gifts, bequests, or devises, shall be depos-  
18 ited in the Treasury and shall be available for disburse-  
19 ment upon the order of the Secretary.

20 **SEC. 421. TECHNICAL ADVICE.**

21 (a) AUTHORITY TO PROVIDE.—The Secretary is au-  
22 thorized, upon request, to provide advice, counsel, and  
23 technical assistance to applicants or potential applicants  
24 for grants and contracts and other interested persons with

1 respect to any functions of the Secretary or the Depart-  
2 ment.

3 (b) CONSOLIDATION OF APPLICATIONS.—The Sec-  
4 retary may permit the consolidation of applications for  
5 grants or contracts with respect to two or more functions  
6 of the Secretary or the Department, but such consolida-  
7 tion shall not alter the statutory criteria for approval of  
8 applications for funding with respect to such functions.

9 **SEC. 422. WORKING CAPITAL FUND.**

10 (a) ESTABLISHMENT AND USE.—The Secretary, with  
11 the approval of the Director of the Office of Management  
12 and Budget, is authorized to establish for the Department  
13 a working capital fund (hereafter in this section referred  
14 to as the “fund”), to be available without fiscal year limi-  
15 tation, for expenses necessary for the maintenance and op-  
16 eration of an administrative services office to provide such  
17 common administrative services as the Secretary shall find  
18 to be desirable in the interests of economy and efficiency,  
19 including such services as—

20 (1) a central supply service for stationery and  
21 other supplies and equipment for which adequate  
22 stocks may be maintained to meet in whole or in  
23 part the requirements of the Department and its of-  
24 fices;

1           (2) central messenger, mail, telephone, and  
2           other communications services;

3           (3) office space, and central services for docu-  
4           ment reproduction, for graphics, and for visual aids;  
5           and

6           (4) a central library service.

7           (b) OPERATION OF FUND.—The capital of the fund  
8 shall consist of any appropriations made for the purpose  
9 of providing working capital and the fair and reasonable  
10 value of such stocks of supplies, equipment, and other as-  
11 sets and inventories on order as the Secretary may trans-  
12 fer to the administrative services office, less the related  
13 liabilities and unpaid obligations. There shall be trans-  
14 ferred to the administrative services office the stocks of  
15 supplies, equipment, other assets, liabilities, and unpaid  
16 obligations relating to the services which the Secretary de-  
17 termines, with the approval of the Director of the Office  
18 of Management and Budget, will be performed. Adminis-  
19 trative supplies and services provided by such office shall  
20 be paid for in advance from available funds of agencies  
21 and offices in the Department, or from other sources, at  
22 rates that will approximate the expense of operation. The  
23 fund shall also be credited with receipts from sale or ex-  
24 change of property and receipts in payment for loss or  
25 damage to property.

1 **SEC. 423. FUNDS TRANSFER.**

2 The Secretary may, when authorized in an appropria-  
3 tion Act for any fiscal year, transfer funds from one ap-  
4 propriation to another within the Department, except that  
5 no appropriations for any fiscal year shall be either in-  
6 creased or decreased pursuant to this section by more than  
7 10 percent and no such transfer shall result in increasing  
8 any such appropriation above the amount authorized to  
9 be appropriated therefor.

10 **SEC. 424. SEAL OF DEPARTMENT.**

11 The Secretary shall cause a seal of office to be made  
12 for the Department of such design as the Secretary shall  
13 approve. Judicial notice shall be taken of such seal.

14 **SEC. 425. ANNUAL REPORT.**

15 (a) IN GENERAL.—The Secretary shall, as soon as  
16 practicable after the close of each fiscal year, make a sin-  
17 gle, comprehensive report to the President for trans-  
18 mission to the Congress on the activities of the Depart-  
19 ment during such fiscal year.

20 (b) CONTRACTING-OUT REPORT.—The report re-  
21 quired by subsection (a) shall also include an estimate of  
22 the extent of the non-Federal personnel employed pursu-  
23 ant to contracts entered into by the Department under  
24 section 415 or under any other authority (including any  
25 subcontract thereunder), the number of such contracts  
26 and subcontracts pursuant to which non-Federal person-

1 nel are employed, and the total cost of those contracts and  
2 subcontracts.

3 **TITLE V—TRANSITIONAL, SAV-**  
4 **INGS, AND CONFORMING**  
5 **PROVISIONS**

6 **SEC. 501. TRANSFER AND ALLOCATION OF APPROPRIA-**  
7 **TIONS AND PERSONNEL.**

8 (a) TRANSFER TO SECRETARY.—Except as otherwise  
9 provided in this Act, the personnel employed in connection  
10 with, and the assets, liabilities, contracts, property,  
11 records, and unexpended balance of appropriations, au-  
12 thorizations, allocations, and other funds employed, held,  
13 used, arising from, available to, or to be made available  
14 in connection with, the functions and offices, or portions  
15 thereof, transferred by this Act, subject to section 1531  
16 of title 31, United States Code, shall be transferred to the  
17 Secretary for appropriate allocation. Unexpended funds  
18 transferred pursuant to this subsection shall be used only  
19 for the purposes for which the funds were originally au-  
20 thorized and appropriated.

21 (b) EFFECT OF TERMINATIONS.—Positions expressly  
22 specified by statute or reorganization plan to carry out  
23 functions or offices transferred by this Act, personnel oc-  
24 cupying those positions on the date of such transfer, and  
25 personnel authorized to receive compensation in such posi-

1 tions at the rate prescribed for offices and positions at  
2 level IV or V of the Executive Schedule under section 5315  
3 or 5316 of title 5, United States Code, on the date of such  
4 transfer, shall be subject to section 503 of this Act.

5 **SEC. 502. EFFECT ON PERSONNEL.**

6 (a) PRESERVATION OF GRADE AND COMPENSATION  
7 FOR 1 YEAR.—Except as otherwise provided in this Act,  
8 the transfer pursuant to this Act of full-time personnel  
9 (except special Government employees) and part-time per-  
10 sonnel holding permanent positions shall not cause any  
11 such employee to be separated or reduced in grade or com-  
12 pensation for 1 year after the date of transfer to the De-  
13 partment.

14 (b) PRESERVATION OF COMPENSATION FOR EXECU-  
15 TIVE SCHEDULE APPOINTEES.—Any person who, on the  
16 day preceding the date of the transfer of functions and  
17 offices under title III, held a position compensated in ac-  
18 cordance with the Executive Schedule prescribed in chap-  
19 ter 53 of title 5, United States Code, and who, without  
20 a break in service, is appointed in the Department to a  
21 position having duties comparable to the duties performed  
22 immediately preceding such appointment shall continue to  
23 be compensated in the new position at not less than the  
24 rate provided for the previous position, for the duration  
25 of the service of such person in the new position.

1 **SEC. 503. AGENCY TERMINATIONS.**

2 (a) TERMINATIONS.—On the date of the transfer of  
3 functions and offices under title III, the following entities  
4 shall terminate:

5 (1) The Office of the Secretary of Energy.

6 (2) The Office of Deputy Secretary of Energy.

7 (3) The Office of the Under Secretary of Com-  
8 merce for Technology.

9 (4) The Office of the Assistant Secretary of  
10 Commerce for Technology Policy.

11 (5) The Office of Science and Technology Pol-  
12 icy in the Executive Office of the President.

13 (b) TERMINATION OF EXECUTIVE SCHEDULE POSI-  
14 TIONS.—Each position which was expressly authorized by  
15 law, or the incumbent of which was authorized to receive  
16 compensation at the rate prescribed for levels I through  
17 V of the Executive Schedule under sections 5312 through  
18 5315 of title 5, United States Code, in an office termi-  
19 nated pursuant to this Act shall also terminate.

20 **SEC. 504. INCIDENTAL TRANSFERS.**

21 (a) IN GENERAL.—The Director of the Office of  
22 Management and Budget, in conjunction with the Sec-  
23 retary, shall make such determinations as may be nec-  
24 essary with regard to the functions, offices, or portions  
25 thereof transferred by this Act, and make such additional  
26 incidental dispositions of personnel, assets, liabilities,

1 grants, contracts, property, records, and unexpended bal-  
2 ances of appropriations, authorizations, allocations, and  
3 other funds held, used, arising from, available to, or to  
4 be made available in connection with such functions, of-  
5 fices, or portions thereof, as may be necessary to carry  
6 out this Act. The Director shall provide for the termi-  
7 nation of the affairs of all entities terminated by this Act  
8 and, in conjunction with the Secretary, for such further  
9 measures and dispositions as may be necessary to effec-  
10 tuate the purposes of this Act.

11 (b) ALLOCATION OF SES POSITIONS.—After con-  
12 sultation with the Director of the Office of Personnel Man-  
13 agement, the Director of the Office of Management and  
14 Budget is authorized to make such determinations as may  
15 be necessary with regard to the transfer of positions with-  
16 in the Senior Executive Service in connection with func-  
17 tions and offices transferred by this Act.

18 **SEC. 505. SAVINGS PROVISIONS.**

19 (a) CONTINUITY OF LEGAL FORCE AND EFFECT.—  
20 All orders, determinations, rules, regulations, permits,  
21 grants, contracts, certificates, licenses, and privileges—

22 (1) which have been issued, made, granted, or  
23 allowed to become effective by the President, by any  
24 Federal department or agency or official thereof, or  
25 by a court of competent jurisdiction, in the perform-

1       ance of functions which are transferred under this  
2       Act to the Secretary or the Department; and

3             (2) which are in effect at the time of such  
4       transfer,

5 shall continue in effect according to their terms until  
6 modified, terminated, superseded, set aside, or revoked by  
7 the President, the Secretary, or the authorized official, a  
8 court of competent jurisdiction, or by operation of law.

9       (b) PENDING PROCEEDINGS.—(1) This Act shall not  
10 affect any proceedings, including notices of proposed rule-  
11 making, or any application for any license, permit, certifi-  
12 cate, or financial assistance pending on the date of the  
13 transfer of functions and offices under title III before any  
14 department, agency, commission, or component thereof,  
15 functions of which are transferred by this Act. Such pro-  
16 ceedings and applications, to the extent that they relate  
17 to functions so transferred, shall be continued, except as  
18 provided in paragraph (3).

19       (2) Orders may be issued in such proceedings, ap-  
20 peals may be taken therefrom, and payments may be made  
21 pursuant to such orders, as if this Act had not been en-  
22 acted. Orders issued in any such proceedings shall con-  
23 tinue in effect until modified, terminated, superseded, or  
24 revoked by the Secretary, by a court of competent jurisdic-  
25 tion, or by operation of law.

1       (3) Nothing in this subsection shall be considered to  
2 prohibit the discontinuance or modification of any such  
3 proceeding under the same terms and conditions and to  
4 the same extent that such proceeding could have been dis-  
5 continued or modified if this Act had not been enacted.

6       (4) The Secretary is authorized to promulgate regula-  
7 tions providing for the orderly transfer of proceedings con-  
8 tinued under this subsection to the Department.

9       (c) NO EFFECT ON JUDICIAL PROCEEDINGS.—Ex-  
10 cept as provided in subsection (e)—

11           (1) the transfer of functions and offices under  
12 title III shall not affect suits commenced prior to the  
13 date of such transfer; and

14           (2) in all such suits, proceedings shall be had,  
15 appeals taken, and judgments rendered in the same  
16 manner and effect as if this Act had not been en-  
17 acted.

18       (d) NON-ABATEMENT OF PROCEEDINGS.—No suit,  
19 action, or other proceeding commenced by or against any  
20 officer in the official capacity of such individual as an offi-  
21 cer of any department or agency, functions of which are  
22 transferred by this Act, shall abate by reason of the enact-  
23 ment of this Act. No cause of action by or against any  
24 department or agency, functions of which are transferred  
25 by this Act, or by or against any officer thereof in the

1 official capacity of such officer shall abate by reason of  
2 the enactment of this Act.

3 (e) CONTINUATION OF PROCEEDING WITH SUBSTI-  
4 TUTION OF PARTIES.—If, before the date of the transfer  
5 of functions and offices under title III, any department  
6 or agency, or officer thereof in the official capacity of such  
7 officer, is a party to a suit, and under this Act any func-  
8 tion of such department, agency, or officer is transferred  
9 to the Secretary or any other official of the Department,  
10 then such suit shall be continued with the Secretary or  
11 other appropriate official of the Department substituted  
12 or added as a party.

13 (f) REVIEWABILITY OF ORDERS AND ACTIONS  
14 UNDER TRANSFERRED FUNCTIONS.—Orders and actions  
15 of the Secretary in the exercise of functions transferred  
16 under this Act shall be subject to judicial review to the  
17 same extent and in the same manner as if such orders  
18 and actions had been by the agency or office, or part  
19 thereof, exercising such functions immediately preceding  
20 their transfer. Any statutory requirements relating to no-  
21 tice, hearings, action upon the record, or administrative  
22 review that apply to any function transferred by this Act  
23 shall apply to the exercise of such function by the Sec-  
24 retary.

1 **SEC. 506. REFERENCE.**

2 With respect to any function transferred by this Act  
3 and exercised on or after the date of such transfer, ref-  
4 erence in any other Federal law to any department, com-  
5 mission, or agency or any officer or office the functions  
6 of which so transferred shall be deemed to refer to the  
7 Secretary, other official, or component of the Department  
8 to which this Act transfers such functions.

9 **SEC. 507. AMENDMENTS.**

10 (a) DEPARTMENT OF ENERGY ORGANIZATION  
11 ACT.—Sections 201 through 203 of the Department of  
12 Energy Organization Act (42 U.S.C. 7131–7133) are re-  
13 pealed.

14 (b) INSPECTOR GENERAL ACT OF 1978.—The In-  
15 spector General Act of 1978 is amended—

16 (1) in section 8E(a)(2), by striking “the Na-  
17 tional Science Foundation,”;

18 (2) in section 8E(a)(4), by striking “, except  
19 that with respect to the National Science Founda-  
20 tion, such term means the National Science Board”;

21 (3) in section 11(1)—

22 (A) by striking “Energy,”;

23 (B) by inserting “Science, Space, Energy,  
24 and Technology,” after “the Interior, Labor,”;

25 (C) by striking “Environmental Protec-  
26 tion,”; and

1 (D) by striking “National Aeronautics and  
2 Space,”; and

3 (4) in section 11(2)—

4 (A) by striking “Energy,”;

5 (B) by inserting “Science, Space, Energy,  
6 and Technology,” after “Justice, Labor,”;

7 (C) by striking “the Environmental Protec-  
8 tion Agency,”; and

9 (D) by striking “the National Aeronautics  
10 and Space Administration,”.

11 (c) NATIONAL AERONAUTICS AND SPACE ACT OF  
12 1958.—Section 207 of the National Aeronautics and  
13 Space Act of 1958 (42 U.S.C. 2476a) is repealed.

14 **SEC. 508. TRANSITION.**

15 (a) USE OF FUNDS.—Funds available to any depart-  
16 ment or agency (or any official or component thereof), the  
17 functions or offices of which are transferred to the Sec-  
18 retary or the Department by this Act, may, with the ap-  
19 proval of the Director of the Office of Management and  
20 Budget, be used to pay the compensation and expenses  
21 of any officer appointed pursuant to this Act and other  
22 transitional and planning expenses associated with the es-  
23 tablishment of the Department or transfer of functions or  
24 offices thereto until such time as funds for such purposes  
25 are otherwise available.

1 (b) USE OF PERSONNEL.—With the consent of the  
2 appropriate department or agency head concerned, the  
3 Secretary is authorized to utilize the services of such offi-  
4 cers, employees, and other personnel of the departments  
5 and agencies from which functions or offices have been  
6 transferred to the Secretary or the Department, for such  
7 period of time as may reasonably be needed to facilitate  
8 the orderly implementation of this Act.

9 **SEC. 509. INTERIM APPOINTMENTS.**

10 (a) AUTHORITY TO APPOINT.—Notwithstanding any  
11 other provision of law, in the event that one or more offi-  
12 cers required by this Act to be appointed by and with the  
13 advice and consent of the Senate shall not have entered  
14 upon office on the date of the transfer of functions and  
15 offices under title III, the President may designate an offi-  
16 cer in the executive branch to act in such office for 120  
17 days or until the office is filled as provided in this Act,  
18 whichever occurs first.

19 (b) COMPENSATION.—Any officer acting in an office  
20 in the Department pursuant to the provisions of sub-  
21 section (a) shall receive compensation at the rate pre-  
22 scribed for such office under this Act.

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