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Introductory Remarks By:

SENATOR HARRISON H. SCHMITT

RE:

"SCIENCE AND TECHNOLOGY RESEARCH AND DEVELOPMENT UTILIZATION POLICY ACT"

Mr. President, I am today introducing the Science and Technology Research and Development Utilization Policy Act that would establish a uniform Federal policy for the management and utilization of the results of federally sponsored research and development. The existing hodgepodge of Federal policies governing the allocation of rights to inventions resulting from the performance of Government contracts fail to provide the sufficient incentives for innovation and delay or discourage the beneficial commercial utilization of the benefits of such inventions. The seriousness of this problem has been reflected in the Nation's declining rate of industrial innovation and economic growth, the growing international trade deficit, and the increasing threats to U.S. technological leadership.

The role of the Federal Government in the industrial innovation process cannot be overstated. For more than a decade, Federal agencies have funded an average of approximately 70 percent of the Nation's entire expenditures for science and technology research and development. During this past year, the Federal Government provided roughly \$26 billion in research and development financing. As a result of this huge national investment, thousands of inventions are identified each year; the Government currently holds title to about 28,000 such inventions, of which only 5 percent have been utilized. It is essential that the United States take full advantage of the potential benefits from its investment in science and technology research and development. Unfortunately, Government policies have operated in the past to inhibit the process by which such benefits are made available to the consumer.

Mr. President, this is not a new problem. For the past 30 years debate has flourished over the appropriate Federal policy for determining ownership of the products of Government-funded research. The future of such policy remains uncertain. National Commissions, interagency committees, and two executive orders have failed to achieve a comprehensive Government policy on this issue. The nature of the problem demands a legislative solution. Individual Federal agencies operate under varying statutory directives. The executive branch has been unable to reach a consensus as to the most desirable policy to follow.

The Senate Science, Technology, and Space Subcommittee, of which I am the ranking member, has had a longstanding interest in the direction of Federal R. & D., industrial innovation, and Federal policies affecting these areas. An integral part of the subcommittee's concern related to the Federal Government's role in promoting technology utilization and industrial innovation. The Subcommittee and the International Finance Subcommittee have held numerous hearings on these issues in the past and will continue to pursue their investigation of problems associated with these concerns.

The bill I am offering today would provide a system for the effective management and utilization of the results of Federal research and development. I believe it is possible to formulate a comprehensive policy that would achieve such objectives as commercial utilization, uniformity, predictability, and administrative ease, while at the same time protecting the interest of the general public and preventing any wind-fall profits or undue market concentration.

The approach I am suggesting in this bill represents a middle-ground position between the traditional "title in the Government" policy and a "license" policy that would routinely assign title to the contractor. The framework for this approach is set forth in title II of my bill. Essentially, it provides that in specified situations, such as when there is a need to protect the public health, safety, or welfare, the Government would retain title to any invention developed under a Federal contract. In all other situations, it would be presumed that the contractor would have title to any inventions made under the contract.

To assure flexibility in the implementation of the policy, the Government would have authority to waive title when it is determined to be in the public interest. In addition, the Government is given "march-in rights" to require licensing of any such invention.

This comprehensive policy would apply to all agencies which enter into Federal R. & D. contracts. A Federal Review Board is created to review, coordinate, and direct the implementation of a uniform policy.

My bill would also address the problem of effectively utilizing those inventions in which title is held by the Government. Clearly, there is a need for better coordination and direction of Federal efforts to facilitate the expeditious transfer of technology to the private sector. Title IV would direct the Secretary of Commerce to establish a Federal technology utilization program under which necessary action would be taken to promote the utilization program under which necessary action would be taken to promote the utilization and protection of rights in Government-owned inventions. This Government-wide program would be patterned after the highly successful National Aeronautics and Space Administration technology utilization programs. In addition, each Federal agency would be required to develop and implement a separate technology utilization program. The purpose of such programs would be to expedite the technology transfer process, including the secondary uses of technology for societal needs.

Mr. President, I am introducing this legislative proposal to initiate and encourage discussion on these issues and to provide the framework for a serious re-examination of our national policy. I plan to circulate this bill for comment during the next several months and introduce a revised version early in the 96th Congress.