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225-3741

NINETY-SIXTH CONGRESS
Congress of the United States
House of Representatives

GOVERNMENT INFORMATION AND INDIVIDUAL RIGHTS
SUBCOMMITTEE

OF THE

COMMITTEE ON GOVERNMENT OPERATIONS

RAYBURN HOUSE OFFICE BUILDING, ROOM B-349-B-C
WASHINGTON, D.C. 20515

January 5, 1981

Mr. Carl Wootten
Patent Administration
Duke University
614 Chapel Drive Annex
Durham, N.C. 27706

Dear Carl:

Enclosed is the draft bill that we discussed today on the telephone. As I told you, the draft is not a subcommittee product and is being circulated only for comment. I envision doing a second (and possibly final) draft after receiving suggestions. When we have agreed on a final product, or when we have agreed to disagree, you will then be free to use the draft as you see fit or to change it.

I am also enclosing a copy of the just published Committee report on the Patent Secrecy Act. I am sure that you will find it of interest.

Sincerely,

Bob

Robert Gellman
Associate Counsel

RG/rg/ds
Enclosure

1-8-81
RC: ETM } W/ENCL
LKJ }
FILE

FILE	<u>FOIA</u>
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A B I L L

To protect the confidentiality of scientific research proposals and for other purposes.

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

SEC. 1. This Act may be cited as the "Research Proposal Confidentiality Act".

DEFINITIONS

SEC. 2. For purposes of this Act:

(1) The term "agency" means a federal agency as defined for purposes of section 552 of title 5, United States Code.

(2) The term "research proposal" means --

(A) a protocol, design, description, outline, or plan of a scientific study, project, or experiment that has been submitted to an agency for

(I) financial support, whether or not the proposal has been approved for support, or

(II) approval, whether or not the proposal has been approved; or

(B) a portion of the research proposal.

(3) The term "funded research proposal" means a research proposal that has specifically approved by an agency for financial support, in whole or in part, with agency funds.

(4) The term "researcher" means any person (other than an agency employee) who has submitted a research proposal to an agency and who is seeking from that agency (A) a grant, contract, fellowship, award, or other financial support to carry out the proposal, or (B) approval for the proposal.

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CONFIDENTIALITY

SEC. 3. (a) Each agency that receives research proposals shall promulgate regulations, pursuant to notice and receipt of public comments, specifying procedures by which a researcher may designate a research proposal as confidential at the time of submission of the proposal.

(b) A researcher who submits a research proposal to an agency may at the time of submission designate the proposal as confidential if--

(1) the information so designated is information described in section 552(b)(4) of title 5, United States Code; or

(2) the information would qualify under paragraph (1) but for researcher's status as non-profit or non-commercial.

DISCLOSURE

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SEC. 4. (a) Except as otherwise provided in subsection (b), a research proposal shall not be publicly disclosed by an agency unless--

- (1) (A) the information disclosed is limited to--
 - (I) the name and affiliation of the researcher;
 - (II) a general description of the proposal;
 - (III) the amount of funding sought;
 - (IV) the program under which funding is sought; and
 - (V) the duration of the research being proposed; and
- (B) the disclosure is not otherwise prohibited by law;
- (2) (A) the head of the agency has determined that the disclosure is necessary to protect the public health or safety against an unreasonable risk of injury, and
 - (B) the procedures of section 5 have been followed; or
- (3) the researcher has consented to the disclosure.

(b) A funded research proposal shall be publicly disclosed by an agency upon request in accordance with applicable law unless--

- (1) the disclosure is otherwise prohibited by law, or
- (2) (A) the proposal was designated as confidential by the researcher at the time of submission to the agency;
 - (B) the head of the agency has determined that the proposal is confidential under the standards set forth in section 3(b) of this Act, and
 - (C) the procedures of section 5 have been followed.

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(c) In making disclosures under subsection (b), any reasonably segregable portion of a proposal shall be provided to any person requesting the proposal after deletion of the portions which are exempt from disclosure.

(d) Nothing in this section shall be construed to prohibit an agency from disclosing a research proposal to a person or other agency in connection with official agency business.

PROCEDURE

SEC. 5. (a) At least ten days prior to making a final determination concerning the disclosure under section 4(a) (2) or (b) (2) of a research proposal, an agency shall notify the researcher that disclosure of the proposal is being considered and shall permit the researcher to submit to the agency written arguments regarding the disclosure.

(b) The requirement under subsection (a) for notice shall not apply if—

(1) the agency determines, prior to giving notice, that the request for disclosure should be denied;

(2) the disclosure is pursuant to a law that requires disclosure of the research proposal; or

(3) the information is already public.

(c) Immediately after making a final determination in accordance with section 4(a) (2) or (b) (2) to disclose a research proposal, an agency shall notify the researcher of the determination and shall not actually disclose the proposal for ten days after notice of the determination has been received by the researcher.

(d) An agency that has determined to disclose a research proposal under section 4(a) (2) (relating to disclosures necessary to protect the public health or safety) may, notwithstanding the notice requirements of subsections (a) and (c), disclose the proposal without prior notice to the researcher if the head of the agency separately determines that any delay resulting from the notice would be detrimental to the public health or safety.

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EFFECTIVE DATE

This Act shall take effect on the first day of the first calendar quarter beginning more than one hundred and eighty days after the date of enactment of this Act.