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[MINORITY STAFF WORKING DRAFT]

MARCH 21, 1979

96TH CONGRESS
1ST SESSION

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(?)

Entitled the "Science and Technology Research and Development Utilization Policy Act".

IN THE SENATE OF THE UNITED STATES

MARCH, 1979

(?)

Mr. SCHMITT introduced the following bill; which was read twice and referred to the Committee on

A BILL

Entitled the "Science and Technology Research and Development Utilization Policy Act".

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

3 TITLE I—POLICY

4 SEC. 101. FINDINGS.

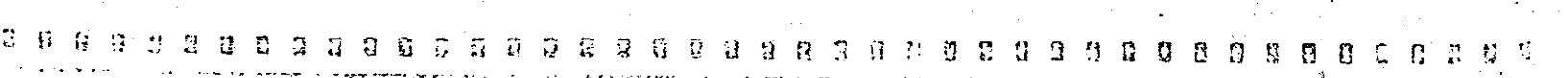
5 The Congress, recognizing the profound impact of sci-
6 ence, engineering, and technology policy on the economic,
7 social, political, technological well-being, and the health and

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1 safety of the Nation as a whole, hereby finds and declares
2 that:

3 (1) The United States has recently experienced a
4 decline in the process of industrial innovation and pro-
5 ductivity which is integrally related to, and adversely
6 impacts upon, domestic productivity, the rate of eco-
7 nomic growth, the level of employment, the balance of
8 trade, and the attainment of other national goals.

9 (2) The national support of scientific and techno-
10 logical research and development is indispensable to
11 sustained growth and economic stability, and it is in
12 the national interest to maximize the benefits to the
13 general public from such investment.

14 (3) Scientific and technological developments and
15 discoveries resulting from work performed with Gov-
16 ernment contracts constitute a valuable national re-
17 source which should be developed in a manner consist-
18 ent with the public interest and the equities of the re-
19 spective parties.

20 (4) Current Federal policy with respect to the al-
21 location of rights to the results of federally sponsored
22 research and development deters contractor participa-
23 tion in Government contracts, delays technological
24 progress, and stifles the innovative process.

1 (5) There is a need for the establishment and im-
2 plementation of a flexible, uniform Government-wide
3 policy for the management and utilization of the results
4 of federally funded research and development. This
5 uniform policy should promote the progress of science
6 and the useful arts, encourage the efficient commercial
7 utilization of technological developments and discover-
8 ies, guarantee the protection of the public interest, and
9 recognize the equities of the contracting parties.

10 SEC. 102. PURPOSE.

11 It is the purpose of this Act to—

12 (1) establish and maintain a uniform Federal
13 policy for the management and use of the results of
14 federally sponsored science and technology research
15 and development; and

16 (2) insure the effective implementation of the pro-
17 visions of this Act, and to monitor on a continuing
18 basis the impact of Federal science and technology
19 policies on innovation and technology development.

20 SEC. 103. DEFINITIONS.

21 As used in this Act the term—

22 (1) "contract" means any contract, grant, agree-
23 ment, commitment, understanding, or other arrange-
24 ment entered into between any Federal agency and
25 any person where a purpose of the contract is the con-

1 duct of experimental, developmental, or research work.

2 Such term includes any assignment, substitution of par-
3 ties, or subcontract of any type entered into or exe-
4 cuted for the conduct of experimental, developmental,
5 or research work in connection with the performance of
6 that contract;

7 (2) "contractor" means any person and any public
8 or private corporation, partnership, firm, association,
9 institution, or other entity that is a party to the con-
10 tract;

11 (3) "disclosure" means a written statement suffi-
12 ciently complete as to technical detail to convey to one
13 skilled in the art to which the invention pertains a
14 clear understanding of the nature, purpose, operation,
15 and as the case may be, physical, chemical, or electri-
16 cal characteristics of the invention;

17 (4) "Federal agency" means an "executive
18 agency" as defined by section 105 of title 5, United
19 States Code, and the military departments as defined
20 by section 102 of title 5, United States Code;

21 (5) "Federal employees" means all employees as
22 defined in section 2105 of title 5, United States Code,
23 and members of the uniformed services;

24 (6) "Government" means the Government of the
25 United States of America,

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1 (7) "invention" means any invention, discovery,
2 innovation, or improvement which, without regard to
3 the patentability thereof, falls within the classes of pat-
4 entable subject matter defined in title 35, United
5 States Code;

6 (8) "inventor" means any person, other than a
7 contractor, who has made an invention under a con-
8 tract but who has not agreed to assign his rights in
9 such invention to the contractor;

10 (9) "made under the contract" or "made under a
11 contract" when used in relation to any invention
12 means the conception or first actual reduction to prac-
13 tice of such invention in the course of any work under
14 the contract or under a contract, respectively;

15 (10) "nonprofit organization" means universities
16 and other institutions of higher education or an organi-
17 zation of the type described in section 501(c)(3) of the
18 Internal Revenue Code of 1954 (26 U.S.C. 501(c)) and
19 exempt from taxation under section 501(a) of the Inter-
20 nal Revenue Code (26 U.S.C. 501(a));

21 (11) "Office" means the Federal Office of Science
22 and Technology Research and Development Utilization
23 established under section 201 of this Act;

24 (12) "person" means any individual, partnership,
25 corporation, association, institution, or other entity;

1 (13) "practical application" means to manufacture
2 in the case of a composition or product, to practice in
3 the case of a machine or system, and, in each case,
4 under such conditions as to establish that the invention
5 is being worked and that its benefits are available to
6 the public either on reasonable terms or through rea-
7 sonable licensing arrangements;

8 (14) "qualified technology transfer program",
9 when used in relation to a nonprofit organization,
10 means a program which includes—

11 (i) an established patent policy which is con-
12 sistent with the policy set forth in this Act and is
13 administered on a continuous basis by an officer or
14 entity responsible to the nonprofit organization;

15 (ii) agreements with employees requiring
16 them to assign either to the organization, its des-
17 ignee, or the Government any invention conceived
18 or first actually reduced to practice in the course
19 of or under Government contracts and awards or
20 assurance that such agreements are obtained prior
21 to the assignment of personnel to Government-
22 supported research and development projects;

23 (iii) procedures for prompt invention identifi-
24 cation and timely disclosure to the officer or

1 entity administering the patent policy of the non-
2 profit organization;

3 (iv) procedures for invention evaluation; and

4 (v) (an active and ^{a wall} effective promotional) pro-
5 gram for the licensing and marketing of inven-
6 tions; and

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7 TITLE II—FEDERAL OFFICE OF SCIENCE AND
8 TECHNOLOGY RESEARCH AND DEVELOP-
9 MENT UTILIZATION

10 SEC. 201. ESTABLISHMENT.

11 (a) No later than 180 days following the enactment of
12 this Act, the Secretary of Commerce shall establish within
13 the Department of Commerce the Federal Office of Science
14 and Technology Research and Development Utilization. The
15 Office shall be headed by a Director appointed by the Presi-
16 dent, with the advice and consent of the Senate. The Direc-
17 tor shall receive compensation at the rate specified for level
18 V positions in the Executive Schedule. The Director shall
19 have authority, subject to the civil service and classification
20 laws, to appoint such personnel, including hearing examiners,
21 as are necessary in the exercise of its functions. The Director
22 is authorized to make such expenditures and enter into such
23 contracts as are necessary in the exercise of its function.

24 (b) The objects and purposes of the Office shall be to
25 coordinate, direct, and review the implementation and admin-

1 istration of the uniform Federal policy set forth in this Act
2 with respect to the ownership of inventions resulting from
3 federally sponsored research and development, and to pro-
4 mote the efficient utilization of the results of federally spon-
5 sored research and development.

6 (c) With a view to obtaining uniform application of the
7 policies of this Act, the Office is authorized and directed—

8 (1) to consult and advise with Federal agencies
9 concerning the effective implementation and operation
10 of the policies, purposes, and objectives of this Act;

11 (2) subject to the authority of the office of Federal
12 Procurement Policy, to formulate and recommend to
13 the President such proposed rules, regulations, and
14 procedures necessary and desirable to assure the uni-
15 form application of the provisions of this Act;

16 (3) to accumulate, analyze, and disseminate data
17 necessary to evaluate the administration and effective-
18 ness of the policies set forth in this Act;

19 (4) to determine with administrative finality any
20 dispute between a Federal agency and an aggrieved
21 party arising under title III or title IV of this Act;

22 (5) monitor, on a continuing basis, the rights of
23 the Government under section 304 of this Act in any
24 invention made under a contract of a Federal agency,
25 and take all suitable and necessary steps to protect and

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1 enforce the rights of the Government in any such in-
2 vention; and

3 (6) to perform such other duties as may be pre-
4 scribed by the President or by statute.

5 (d) For the purpose of assuring the effective manage-
6 ment of Government-owned inventions, the Office is author-
7 ized and directed to—

8 (1) assist and coordinate agency efforts to promote
9 the licensing and utilization of Government-owned pat-
10 ents and inventions;

11 (2) accept custody and administration, in whole or
12 in part, of Government rights in any invention for the
13 purpose of protecting the United States interest therein
14 and promoting the effective utilization of any such
15 invention;

16 (3) develop and manage a Government-wide pro-
17 gram designed to stimulate the transfer of Govern-
18 ment-owned technology to the private sector through
19 the development, demonstration, and dissemination of
20 information regarding potential applications and evalu-
21 ate and assist where appropriate the participation of
22 the private sector of the technology transfer process;

23 (4) evaluate, with the assistance of the originating
24 agency, inventions referred by Government agencies
25 and patent applications filed thereon in order to iden-

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1 tify those inventions with the greatest commercial po-
2 tential and to promote the development of inventions
3 so identified;

4 (5) assist the Government agencies in seeking
5 protection and maintaining inventions in foreign coun-
6 tries, including the payment of fees and costs con-
7 nected therewith;

8 (6) make market surveys and other investigations
9 for determining the potential of inventions and patents
10 for domestic and foreign licensing and other utilization;

11 (7) acquire technical information and engage in
12 negotiations and other activities for promoting the li-
13 censing and other utilization of Government-owned
14 patent applications, patents, or other forms of protec-
15 tion obtained, and to demonstrate the practicability of
16 the inventions for the purpose of enhancing their
17 marketability;

18 (8) consult and advise agencies as to areas of sci-
19 ence and technology research and development with
20 potential for commercial utilization; and

21 (9) receive funds from fees, royalties, sales, or
22 other management of Government-owned inventions
23 authorized under this Act: *Provided, however,* That
24 such funds will be used only for the purpose of this
25 Act.

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1 (e) The Office shall submit an annual report of its activi-
 2 ties to Congress, including therein (1) relevant statistical data
 3 regarding the disposition of invention disclosures resulting
 4 from federally funded research and development; (2) any rec-
 5 ommendation as to legislative or administrative changes nec-
 6 essary to achieve the policy and purposes of this Act; and (3)
 7 an analysis of the impact of Federal patent policies on the
 8 innovative process.

9 (f) The Office shall establish such interagency commit-
 10 tees as are necessary to assist in the review and formulation
 11 of uniform rules, regulations, and procedures implementing
 12 the provisions of this Act.

13 (g) Authorization for appropriations are hereby author-
 14 ized to be appropriated to the Secretary of Commerce to
 15 carry out the provisions of this Act, the sum of \$3,000,000
 16 for fiscal year 1980.

17 SEC. 202. AGENCY TECHNOLOGY UTILIZATION PROGRAM.

18 To assist in the transfer of Government-owned innova-
 19 tive technology resulting from Federal research and develop-
 20 ment for application and use in industry, agriculture, medi-
 21 cine, transportation, and other critical sectors of the econ-
 22 omy, each Federal agency supporting research and develop-
 23 ment activities shall develop and implement a technology uti-
 24 lization program. Specific program objectives shall include,
 25 but not be limited to—

1 (1) expedite and facilitate the application and use
2 of technology by shortening the time between genera-
3 tion of advanced technologies and their use in the
4 economy and provide greater incentives for use of so-
5 cially beneficial innovations;

6 (2) encourage multiple secondary uses of technol-
7 ogy in industry, education, and government where
8 there is a wide spectrum of technological problems and
9 needs; and

10 (3) understand more fully the technology transfer
11 process and its impact on the economy, and to manage
12 and optimize the process in a systematic way.

13 SEC. 203. EXPIRATION.

14 The Office established pursuant to this title and the au-
15 thorities conferred thereto shall expire and terminate 5 years
16 following the effective date of this Act unless renewed by
17 action of Congress.

18 TITLE III—ALLOCATION OF RIGHTS—

19 GOVERNMENT CONTRACTORS

20 SEC. 301. RIGHTS OF THE GOVERNMENT.

21 Each Federal agency shall acquire on behalf of the
22 United States, at the time of entering into a contract, title to
23 any invention made or conceived in the course of or under
24 any contract of an agency if the agency determines—

*field of use?
non-exclusive
license?*

1 (1) the services of the contractor are for the oper-
2 ation of a Government-owned research or production
3 facility;

4 (2) retention of title is necessary because of the
5 classified nature of the work being performed under the
6 contract;

7 (3) because of the exceptional circumstances, re-
8 retention of title by the Government is necessary to
9 assure the adequate protection of the public health,
10 safety, or welfare;

what are these
basis for never relinquishing title

11 (4) in the case of a nonprofit organization, that
12 such institution does not have a qualified technology
13 transfer program as defined in section 103 of this Act;
14 or

15 (5) the principal purpose of the contract is to de-
16 velop or improve products, processes, or methods
17 which will be required for use by Government regula-
18 tions:

19 *Provided, however, That the Federal agency may subse-*
20 *quently waive all or any part of the rights of the United*
21 *States under this section to such invention in conformity with*
22 *the provisions of section 303.*

23 SEC. 302. RIGHTS OF THE CONTRACTOR.

24 In all other situations not specified in section 301, the
25 contractor or inventor shall have the option of acquiring title

1 to any invention made or conceived under the contract. Such
2 rights, however, shall be subject to the limitations set forth in
3 section 304. Said option shall be exercised at the time of
4 disclosure of the invention or within such time thereafter as
5 may be provided in the contract. The Government shall
6 obtain title to any invention for which this option is not
7 exercised.

8 SEC. 303. WAIVER.

9 A Federal agency may at any time waive all or any part
10 of the rights of the United States under this section to any
11 invention or class of inventions made or which may be made
12 by any person or class of persons under the contract of the
13 agency if the agency determines that the condition justifying
14 retention of title by the Government under subsection (a) no
15 longer exists or the interests of the United States and the
16 general public will be best served thereby. The agency shall
17 maintain a record, which shall be made public and periodical-
18 ly updated, of determinations made under this chapter. In
19 making such determinations, the agency shall consider the
20 following objectives:

- 21 (1) encouraging the wide availability to the public
22 of the benefits of the experimental, developmental, or
23 research programs in the shortest practicable time;
- 24 (2) promoting the commercial utilization of such
25 inventions;

advance waiver

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reporting requirements would tend to have a chilling effect on making determinations for waiver.

incidental aspect

1 (3) encouraging participation by private persons in
2 the Government-sponsored experimental, developmen-
3 tal, or research programs; and

4 (4) fostering competition and preventing undue
5 market concentration or the creation of maintenance of
6 other situations inconsistent with the antitrust laws.

7 SEC. 304. MARCH-IN-RIGHTS.

8 (a) Where a contractor has acquired title to an invention
9 under section 302 or 303, the Federal agency shall have the
10 right, pursuant to regulations and subject to the provisions of
11 subsection (b), to—

12 (1) require the contractor to grant a nonexclusive,
13 partially exclusive, or exclusive license to a responsible
14 applicant or applicants, upon terms reasonable under
15 the circumstances, or to require an assignment of title
16 to the Government if the agency determines such
17 action is necessary because the contractor has not filed
18 a patent application on the invention within a reason-
19 able period of time or has not taken, or is not expected
20 to take within a reasonable time, effective steps to
21 achieve practical application of the invention; or

22 (2) require the contractor to grant a nonexclusive,
23 partially exclusive, or exclusive license to a responsible
24 applicant or applicants, upon terms reasonable under

1 the circumstances, if the agency determines such action
2 is necessary—

3 (i) to alleviate a serious threat to the public
4 health, safety, or welfare needs which is not rea-
5 sonably satisfied by the contractor or its licensees
6 or otherwise required for the protection of nation-
7 al security;

8 (ii) to meet requirements for public use by
9 Federal regulation which are not satisfied by the
10 contractor or its licensees; or

11 (iii) because the exclusive rights of the inven-
12 tion held by the contractor have tended substan-
13 tially to lessen competition or to result in undue
14 market concentration in any section of the United
15 States in any line of commerce to which the tech-
16 nology relates, or to create and maintain other
17 situations inconsistent with the antitrust laws.

*Patents are considered
to come by Justice*

18 (b) The rights of the Federal agency under subsection
19 (a) shall be subject to the prior approval of the Office which
20 shall make its determination after a formal hearing with af-
21 fected parties present and conducted in accordance with the
22 rules, regulations, and procedures adopted by the Office.

23 SEC. 305. GENERAL PROVISIONS.

24 (a) Each contract entered into by the Government shall
25 contain such terms and conditions as the agency deems ap-

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1 appropriate for the protection of the interests of the United
2 States and the general public, including appropriate provi-
3 sions to—

4 (1) require periodic written reports at reasonable
5 intervals in the commercial utilization or efforts at ob-
6 taining commercial utilization that are being made by
7 the inventor or contractor or their licensees or assign-
8 ees: *Provided*, That any such information shall be
9 treated by the Federal agency as commercial and fi-
10 nancial and confidential and not subject to disclosure
11 under the Freedom of Information Act;

12 (2) reserve to the United States at least an irrevoc-
13 able, nonexclusive, paid-up license to make, use, and
14 sell the invention throughout the world by or on behalf
15 of the United States and States and domestic municipal
16 governments, unless the agency determines that it
17 would not be in the public interest to acquire the li-
18 cense for the States and domestic municipal govern-
19 ments;

20 (3) require the prompt disclosure by the contractor
21 or inventor to that agency of any invention made under
22 the contract;

23 (4) require an election by the contractor within a
24 reasonable time after disclosure as to whether the con-

1 tractor intends to file a patent application on any in-
2 vention made under the contract;

3 (5) require a declaration by the contractor within a
4 reasonable time after disclosure of the contractors
5 intent to commercialize or otherwise achieve the wide-
6 spread utilization of the invention by the public; and

7 (6) reserve to the United States and the contrac-
8 tor or inventor rights in each such invention in con-
9 formity with the provisions of this title.

10 (b) Agency determinations as to the rights to inventions
11 under this title shall be made in an expeditious manner with-
12 out unnecessary delay.

13 SEC. 306. BACKGROUND RIGHTS.

14 Nothing contained in this Act shall be construed to de-
15 prive the owner of any background patent or to such rights
16 as the owner may have thereunder.

17 SEC. 307. GOVERNMENT LICENSING AUTHORITY.

18 (a) A Federal agency may grant exclusive or partially
19 exclusive licenses in any invention to which the Government
20 has obtained title if the agency determines that—

21 (1) the desired practical application has not been
22 achieved, or is not likely to be achieved within a rea-
23 sonable period of time by the granting of a nonexclu-
24 sive license;

1 (2) exclusive or partially exclusive licensing is a
2 reasonable and necessary incentive to call forth the in-
3 vestment of risk capital to bring the invention to prac-
4 tical application; and

5 (3) the proposed terms and scope of exclusivity are not
6 greater than reasonably necessary to provide the incen-
7 tive for bringing the invention to practical application.

8 TITLE IV--ALLOCATION OF RIGHTS--FEDERAL
9 EMPLOYEES

10 SEC. 401. ALLOCATION OF RIGHTS.

11 (a) Except as otherwise provided in subsections (b) and
12 (c), the Government shall obtain the entire right, title, and
13 interest in and to all inventions made by any Federal em-
14 ployee if the agency determines that--

15 (1) the invention was made or conceived during
16 working hours;

17 (2) the invention was made or conceived with a
18 contribution by the Government of facilities, equip-
19 ment, materials, funds, or information, or of time or
20 services of other Government employees on official
21 duty; or

22 (3) the invention bears a direct relation to the
23 duties of the Federal employee-inventor, or are made
24 in consequence of his employment.

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1 (b) Where the interest of the Government is insufficient
 2 to require retention of title by the Government but the inven-
 3 tion bears an indirect relation to the duties of the Federal
 4 employee-inventor, the employee shall have the option of ac-
 5 quiring title to such invention, subject, however, to the reser-
 6 vation by the Government of a nonexclusive, irrevocable,
 7 royalty-free license in the invention with the power to grant
 8 licenses for all governmental purposes. The Government
 9 shall obtain title to any invention for which this option is not
 10 exercised.

11 (c) In all situations not falling within subsections (a) and
 12 (b), a Federal employee shall be entitled to retain the entire
 13 right, title, and interest in and to any invention made by the
 14 employee.

15 SEC. 402. PRESUMPTION OF OWNERSHIP.

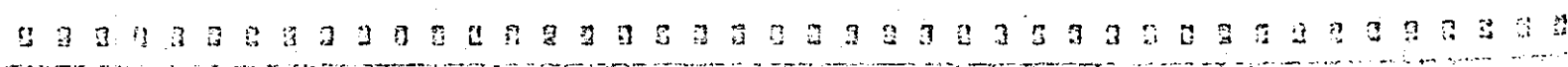
16 (a) In applying the criteria of section 401 to the facts
 17 and circumstances relating to the making of any particular
 18 invention, it shall be presumed that an invention falls within
 19 the criteria of section 401(a) when made by a Federal em-
 20 ployee who is employed or assigned to—

21 (1) invent, improve, or perfect any art, machine,
 22 manufacture, or composition of matter;

23 (2) conduct or perform research or development
 24 work, or both;

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1 (3) supervise, direct, coordinate, or review federal-
2 ly financed or conducted research or development
3 work, or both; or

4 (4) act in a liaison capacity among Federal or
5 non-Federal agencies or individuals engaged in such
6 work.

7 (b) The presumption established by subsection (a) may
8 be rebutted by the facts or circumstances of the conditions
9 under which any particular invention is made.

10 SEC. 403. REVIEW.

11 Federal agency determinations regarding the respective
12 rights of the Government and the Federal employee-inventor
13 are to be reviewed by the Office in accordance with rules,
14 regulations, and procedures adopted by that Office when-
15 ever—

16 (1) the Federal agency fails to obtain title under
17 the provisions of section 401(a); or

18 (2) the Federal employee-inventor who claims to
19 be aggrieved by the determination requests such a
20 review.

21 SEC. 404. INCENTIVES AWARDS PROGRAM.

22 (a) Subject to the provisions of this section, the agency
23 is authorized, upon its own initiative or upon application of
24 any person, to make a monetary award or otherwise offer
25 recognition, in such amount and upon such terms as it shall

1 deem appropriate, to any Federal employee-inventor for any
2 scientific or technical invention determined by the agency to
3 have significant value.

4 (b) Awards shall be granted pursuant to the provisions
5 of chapter 45 of title 5 and chapter 57 of title 1 of the United
6 States Code, and in accordance with regulations issued there-
7 under except as modified by this Act.

8 (c) In granting awards under this section, due considera-
9 tion shall be given to—

10 (1) the extent to which the invention advances the
11 state of the art;

12 (2) the amount expended by the employee-inven-
13 tor for development of such invention;

14 (3) the importance of the invention in terms of its
15 value and benefits to the Government and the United
16 States;

17 (4) the extent to which the invention has achieved
18 utilization by the public; and

19 (5) the amount of any compensation previously re-
20 ceived by the employee-inventor for or on account of
21 the use of such invention by the United States.

22 (d) If more than one applicant under subsection (a)
23 claims an interest in the same contribution, the agency shall
24 ascertain the respective interest of such applicants, and shall
25 apportion any award to be made with respect to such inven-

1 tion among such applicants in such proportions as it shall
2 determine to be equitable.

3 (e) No award may be made under subsection (a) with
4 respect to any invention unless the applicant surrenders, by
5 such means as the agency shall determine to be effective, all
6 claims which such applicant may have to receive any com-
7 pensation (other than the award made under this section) for
8 the use of such invention or any element thereof at any time
9 by or on behalf of the United States or by or on behalf of any
10 foreign government pursuant to any treaty or agreement with
11 the United States, within the United States or at any other
12 place.

13 (f) No award may be made under subsection (a) in any
14 amount exceeding \$100,000, unless the agency has transmit-
15 ted to the appropriate committees of the Congress a full and
16 complete report concerning the amount and terms of, and the
17 basis for, such proposed award, and 30 calendar days of reg-
18 ular session of the Congress have expired after receipt of
19 such report by such committees.

20 (g) A cash award and expense for honorary recognition
21 of a Federal employee-inventor shall be paid from the funds
22 appropriated for the sponsoring Federal agency.

1 TITLE V—MISCELLANEOUS

2 SEC. 501. REPEAL OF EXISTING STATUTORY AUTHORIZA-
3 TIONS.

4 The following Acts are hereby amended as follows:

5 (a) Section 10(a) of the Act of June 29, 1935, as added
6 by title I of the Act of August 14, 1946 (7 U.S.C. 427(a); 60
7 Stat. 1085) is amended by striking out the following: "Any
8 contracts made pursuant to this authority shall contain re-
9 quirements making the results of research and investigations
10 available to the public through dedication, assignment to the
11 Government, or such other means as the Secretary shall
12 determine."

13 (b) Section 205(a) of the Act of August 14, 1946 (7
14 U.S.C. 1624(a); 60 Stat. 1090) is amended by striking out
15 the following: "Any contract made pursuant to this section
16 shall contain requirements making the result of such research
17 and investigations available to the public by such means as
18 the Secretary of Agriculture shall determine."

19 (c) Section 501(c) of the Federal Coal Mine Health and
20 Safety Act of 1969 (30 U.S.C. 951(c); 83 Stat. 742) is
21 amended by striking out the following: "No research, demon-
22 strations, or experiments shall be carried out, contracted for,
23 sponsored, cosponsored, or authorized under authority of this
24 Act, unless all information, uses, products, processes, pat-
25 ents, and other developments resulting from such research,

1 demonstrations, or experiments will (with such exception and
 2 limitation, if any, as the Secretary or the Secretary of
 3 Health, Education, and Welfare may find to be necessary in
 4 the public interest) be available to the general public.”.

5 (d) Section 106(c) of the National Traffic and Motor Ve-
 6 hicle Safety Act of 1966 (15 U.S.C. 1395(c); 80 Stat. 721) is
 7 repealed.

8 (e) Section 12 of the National Science Foundation Act
 9 of 1950 (42 U.S.C. 1871(a); 82 Stat. 360) is repealed.

10 (f) Section 152 of the Atomic Energy Act of 1954 (42
 11 U.S.C. 2182; 68 Stat. 943) is repealed.

12 (g) The National Aeronautics and Space Act of 1958
 13 (72 Stat. 426) is amended—

14 (1) by repealing section 305 thereof (42 U.S.C.
 15 2457): *Provided, however,* That subsections (c), (d), and
 16 (e) of such section shall continue to be effective with
 17 respect to any application for patents in which the
 18 written statement referred to in subsection (c) of such
 19 section has been filed or requested to be filed by the
 20 Commissioner of Patents and Trademarks prior to the
 21 effective date of this Act;

22 (2) by inserting the following new section 305:

23 “SEC. 305. INVENTIONS AND CONTRIBUTIONS
 24 BOARD.—Each proposal for any waiver of patent rights held
 25 by the Administrator shall be referred to an Inventions and

1 Contributions Board which shall be established by the Ad-
2 ministrator within the Administration. Such Board shall
3 accord to each interested party an opportunity for hearing,
4 and shall transmit to the Administrator its findings of fact
5 with respect to such proposal and its recommendations for
6 action to be taken with respect thereto.”;

7 (3) by striking out section 306 thereof (42 U.S.C.
8 2458(a));

9 (4) by inserting at the end of section 203(b) there-
10 of (42 U.S.C. 2478(a)); the following new paragraph:

11 “(14) to provide effective contractual provisions
12 for reporting of the results of the activities of the Ad-
13 ministration, including full and complete technical re-
14 porting of any innovation made in the course of or
15 under any contract of the Administration.”;

16 (5) by inserting at the end of section 203 thereof
17 (42 U.S.C. 2478) the following new subsection:

18 “(e) For the purpose of chapter 17 of title 35 of the
19 United States Code the Administration shall be considered a
20 defense agency of the United States.”; and

21 (6) by striking out the following in such section:

22 “(including patents and rights thereunder).”.

23 (h) Section 6 of the Coal Research and Development
24 Act of 1960 (30 U.S.C. 666; 74 Stat. 337) is repealed.

1 (i) Section 4 of the Helium Act Amendments of 1960
2 (50 U.S.C. 167b; 74 Stat. 920) is amended by striking out
3 the following: "*Provided, however,* That all research con-
4 tracted for, sponsored, cosponsored, or authorized under au-
5 thority of this Act shall be provided for in such a manner that
6 all information, uses, processes, patents, and other develop-
7 ments resulting from such research developed by Govern-
8 ment expenditure will (with such exceptions and limitations,
9 if any, as the Secretary may find to be necessary in the inter-
10 est of national defense) be available to the general public:
11 *And provided further,* That nothing contained herein shall be
12 construed as to deprive the owner of any background patent
13 relating thereto to such rights as he may have thereunder."
14 and by inserting in lieu thereof a period.

15 (j) Section 32 of the Arms Control and Disarmament
16 Act of 1961 (22 U.S.C. 2572; 75 Stat. 634) is repealed.

17 (k) Subsection (e) of section 302 of the Appalachian Re-
18 gional Development Act of 1965 (40 U.S.C. App. 302(e); 79
19 Stat. 5) is repealed.

20 (l) Subsection (e) of section 203 of the Solid Waste Dis-
21 posal Act (42 U.S.C. 5253(c); 70 Stat. 997) is repealed.

22 (m) Section 216 of title 38, United States Code, is
23 amended by striking out subsection (a)(2) thereof and by re-
24 designating subsection (a)(3) thereof as (a)(2).

1 (n) Except for paragraph (1) of section 9 of the Federal
2 Nonnuclear Energy Research and Development Act of 1974
3 (42 U.S.C. 5901; 88 Stat. 1878) is repealed.

4 (o) Section 3 of the Act of June 22, 1976 (42 U.S.C.
5 1959d, note; 90 Stat. 694), is repealed.

6 (p) Section 5(i) of the Tennessee Valley Authority Act
7 of 1933 (16 U.S.C. 831d(i); 48 Stat. 61), is amended by
8 striking both proviso clauses at the end thereof.

9 (q) Section 5(d) of the Consumer Product Safety Act (15
10 U.S.C. 2054(d); 88 Stat. 1211) is repealed.

11 (r) Section 3 of the Act of April 5, 1954 (30 U.S.C.
12 323; 58 Stat. 191), is repealed.

13 (s) Section 8001 of the Solid Waste Disposal Act (42
14 U.S.C. 6981; 90 Stat. 2892) is repealed.

15 (t) Section 5 of the Act of July 3, 1952 (42 U.S.C.
16 1954(b)) is repealed.

17 (u) Section 303 of the Act of July 17, 1964 (42 U.S.C.
18 1961c-3) is repealed.

19 SEC. 502. EFFECTIVE DATE.

20 This Act shall take effect 6 months after the date of
21 enactment of this Act.

22 SEC. 503. AUTHORIZATION FOR APPROPRIATIONS.

23 There are authorized to be appropriated such sums as
24 may be necessary to carry out the provisions of this Act.



J. 41-228----1

J. 41-228----2

