

95TH CONGRESS  
2D SESSION

S. 3627

IN THE SENATE OF THE UNITED STATES

OCTOBER 15 (legislative day, OCTOBER 11), 1978

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

**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.**—The Congress, recognizing the  
5 profound impact of science, engineering, and technology  
6 policy on the economic, social, political, technological well-  
7 being, and the health and safety of the Nation as a whole,  
8 hereby finds and declares that:

9 (1) The United States has recently experienced a  
10 decline in the process of industrial innovation and pro-  
11 ductivity which is integrally related to, and adversely

1 impacts upon, domestic productivity, the rate of eco-  
2 nomic growth, the level of employment, the balance of  
3 trade, and the attainment of other national goals.

4 (2) The national support of scientific and techno-  
5 logical research and development is indispensable to  
6 sustained growth and economic stability, and it is in  
7 the national interest to maximize the benefits to the  
8 general public from such investment.

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

15 (4) Current Federal policy with respect to the al-  
16 location of rights to the results of federally sponsored  
17 research and development deters contractor participa-  
18 tion in Government contracts, delays technological pro-  
19 gress, and stifles the innovative process.

20 (5) There is a need for the establishment and im-  
21 plementation of a flexible, uniform governmentwide  
22 policy for the management and utilization of the results  
23 of federally funded research and development. This  
24 uniform policy should promote the progress of science  
25 and the useful arts, encourage the efficient commercial

1 utilization of technological developments and discover-  
 2 ies, guarantee the protection of the public interest, and  
 3 recognize the equities of the contracting parties.

*(6)-*  
*added*  
 4 SEC. 102. PURPOSE.—It is the purpose of this Act  
 5 to—

6 (1) establish and maintain a uniform Federal  
 7 policy for the management and use of the results of  
 8 federally sponsored science and technology research  
 9 and development; and

10 (2) insure the effective implementation of the pro-  
 11 visions of this Act, and to monitor on a continuing  
 12 basis the impact of Federal science and technology  
 13 policies on innovation and technology development.

14 SEC. 103. DEFINITIONS.—As used in this Act the  
 15 term—

16 *(4)* ~~(1)~~ “Federal agency” means an “executive  
 17 agency” as defined by section 105 of title 5, United  
 18 States Code, and the military departments as defined  
 19 by section 102 of title 5, United States Code;

20 *(5)* ~~(2)~~ “Federal employees” means all employees as  
 21 defined in section 2105 of title 5, United States Code,  
 22 and members of the uniformed services;

23 ~~(3) “agency head” means the head of any Federal~~  
 24 ~~agency, except that (a) the Secretary of Defense shall~~  
 25 ~~be head of the Department of Defense and of each of~~

1 the military departments and (b) in the case of any in-  
2 dependent establishment control over which is exer-  
3 cised by more than one individual, such term means  
4 the body exercising such control;

5 (1) ~~(4)~~ "contract" means any contract, grant, agree-  
6 ment, commitment, understanding, or other arrange-  
7 ment entered into between any Federal agency and  
8 any person where a purpose of the contract is the con-  
9 duct of experimental, developmental, or research work.  
10 Such term includes any assignment, substitution of par-  
11 ties, or subcontract of any type entered into or exe-  
12 cuted for the conduct of experimental, developmental,  
13 or research work in connection with the performance of  
14 that contract;

15 (2) ~~(5)~~ "contractor" means any person ~~and any public~~  
16 ~~or private corporation, partnership, firm, association,~~  
17 ~~institution,~~ or other entity that is a party to the con-  
18 tract;

19 (7) ~~(6)~~ "invention" means any invention, discovery,  
20 innovation, or improvement which, <sup>is or may</sup> ~~without regard to~~  
21 <sup>reasonably be</sup> ~~the patentability thereof, falls within the classes of pat-~~  
22 entable subject matter, <sup>as</sup> defined in title 35, United  
23 States Code;

24 (8) ~~(7)~~ "inventor" means any person, other than a  
25 contractor, who has made an invention under a con-

1 tract but who has not agreed to assign his rights in  
2 such invention to the contractor;

3 (3) ~~(8)~~ "disclosure" means a written statement suffi-  
4 ciently complete as to technical detail to convey to one  
5 skilled in the art to which the invention pertains a  
6 clear understanding of the nature, purpose, operation,  
7 and as the case may be, physical, chemical, or electri-  
8 cal characteristics of the invention;

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

*New* — (10) "*nonprofit organization*" etc.  
14 (11) ~~(10)~~ "person" means any individual, partnership,  
15 corporation, association, institution, or other entity;

16 (12) ~~(11)~~ "practical application" means to manufacture  
17 in the case of a composition or product, to practice in  
18 the case of a <sup>*process or method or to operate in the case of a*</sup> machine or system, and, in each case,  
19 under such conditions as to establish that the invention  
20 is being worked and that its benefits are available to  
21 the public either on reasonable terms or through rea-  
22 sonable licensing arrangements;

23 (12) ~~"Board"~~ means the Federal Science and  
24 Technology Research and Development Utilization

*New* — (13) "*qualified technology transfer program*"  
*etc.*

1 Review Board established under section 501 of title V  
2 of this Act; and

3 (b) (13) "Government" means the Government of the  
4 United States of America;

5 <sup>III</sup>  
6 TITLE II—ALLOCATION OF RIGHTS—

7 GOVERNMENT CONTRACTORS

8 SEC. 201. RIGHTS OF THE GOVERNMENT.—Each *Federal*

9 agency ~~head~~ shall acquire on behalf of the United States, at  
10 the time of entering into a contract, title to any invention  
11 made or conceived in the course of or under <sup>the</sup> any contract of  
12 ~~an~~ <sup>*Federal*</sup> agency if the agency ~~head~~ determines—

13 (1) it is the intention of the Government to take  
14 such steps as are necessary to achieve practical appli-  
15 cations of any inventions likely to be developed under  
16 the contract;

17 (2) the principal purpose of a contract is to de-  
18 velop or improve products, processes, or methods  
19 which are intended for use by the general public;

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

23 (4) retention of title by the Government is neces-  
24 sary to assure the adequate protection of the public  
health, safety, or welfare;

*Handwritten notes:*  
"Review Board" (crossed out)  
"Agency head" (crossed out)  
"Federal" (written in margin)  
"Changed" (written in margin)

1 (5) the contract is in a field of science and tech-  
2 nology in which there has been little significant experi-  
3 ence outside of work funded by the Government, or  
4 where the Government has been the principal devel-  
5 oper of the field, and the acquisition of exclusive rights  
6 at the time of contracting might confer on the contrac-  
7 tor a preferred or dominant position;

8 (6) retention of title is necessary because of the  
9 classified nature of the work being performed under the  
10 contract; or

11 (7) that the commercial interests of the contractor  
12 are not sufficiently established:

13 *Provided, however,* That the agency head may subsequently  
14 waive all or any part of the rights of the United States under  
15 this section to such invention in conformity with the provi-  
16 sions of section 203.

17 SEC. 202. RIGHTS OF THE CONTRACTOR. <sup>(a)</sup> In all  
18 other situations not specified in section <sup>3</sup> 201, the contractor or  
19 inventor shall have the option of <sup>retaining</sup> ~~acquiring~~ title to any inven-  
20 tion made ~~or conceived~~ under the contract. Such rights, ~~how-~~  
21 ever, shall be subject to the limitations set forth in section  
22 <sup>3</sup> 204, ~~Said~~ <sup>and the provisions of Section 305,</sup> option shall be exercised at the time of disclosure  
23 of the invention or within such time thereafter <sup>by notifying the Government</sup> as may be  
24 provided in the contract. The Government shall obtain title  
25 to any invention for which this option is not exercised.

*Changed*

*other existing records on available*

*unintentional? Sec. 205*

*many situations in contract*

*(c) - new*

1        SEC. <sup>3</sup> 203. WAIVER.—<sup>Federal</sup> ~~At~~ <sup>at any time</sup> agency head may waive all or  
 2 any part of the rights of the United States under this <sup>title</sup> section  
 3 to any invention or class of inventions made or which may be  
 4 made by any person or class of persons <sup>under the contract</sup> ~~in the performance of~~  
 5 ~~any work required by any contract~~ of the agency if the  
 6 agency head determines that the <sup>Condition justifying acquisition</sup> interests of the United  
 7 States and the general public will be best served thereby. <sup>of title by the Government under section 301 no longer</sup>  
 8        ~~exists or the~~  
 9 The agency shall maintain a record, which shall be made  
 10 public and periodically updated, of determinations made  
 11 under this <sup>section</sup> ~~chapter~~. In making such determinations, the  
 12 agency shall consider the following objectives:

12            (1) encouraging the wide availability to the public  
 13            of the benefits of the experimental, developmental, or  
 14            research programs in the shortest practicable time;

15            (2) promoting the commercial utilization of such  
 16            inventions;

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

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

23 ~~In making such determinations, the agency head shall~~  
 24 ~~consider—~~



1 (1) in the case of a nonprofit educational institu-  
2 tion, the extent to which such institution has a technol-  
3 ogy transfer capability and program, approved by the  
4 agency head as being consistent with the applicable  
5 policies of this section;

6 (2) the extent to which such waiver is a reason-  
7 able and necessary incentive to call forth private risk  
8 capital for the development and commercialization of  
9 the invention; and

10 (3) the small business status of the applicant.

11 SEC. <sup>3</sup>204. MARCH-IN-RIGHTS.—(a) Where a contractor

12 has <sup>retained</sup> ~~acquired~~ title to an invention under section <sup>3</sup>202 or <sup>3</sup>203 of  
13 ~~this title~~, the Federal agency shall have the right, <sup>pursuant to regulations and</sup> subject to

14 the provisions of subsection (b), to require the contractor to  
15 grant a nonexclusive, partially exclusive, or exclusive license

16 to a responsible applicant or applicants, upon terms reason-  
17 able under the circumstances, <sup>or to require an assignment of title to the Government</sup> if the agency head determines

18 ~~that such action is necessary~~ <sup>because the contractor has not filed a patent</sup>  
19 <sup>application on the invention within a reasonable period of time or has</sup>

20 (i) ~~(1)~~ to alleviate a serious threat to the public  
21 health, safety, or welfare needs which is not reason-

22 ably satisfied by the contractor or its licensees; <sup>or</sup>  
23 <sup>otherwise required for the protection</sup>  
24 (ii) ~~(2)~~ to meet requirements for public use specified

25 by Federal regulation which are not reasonably satis-  
26 fied by the contractor or its licensees; <sup>or</sup>

(iii) ~~(3)~~ new —

*not taken, or is not  
expected to take  
within a reasonable  
time, effective  
steps to achieve  
practical  
application of the  
invention; or  
(2) new —*

1 (3) because the exclusive rights to such subject in-  
 2 vention held by the contractor have tended substan-  
 3 tially to lessen competition or to result in undue  
 4 market concentration in any section of the United  
 5 States in any line of commerce to which the technol-  
 6 ogy relates, or to create and maintain other situations  
 7 inconsistent with the antitrust laws; or

8 (4) because the contractor has not taken, or is not  
 9 expected to take within a reasonable time, effective  
 10 steps to achieve practical application of the identified  
 11 invention.

12 (b) The rights of the Federal agency under subsection

13 (a) shall be subject to the prior approval of the ~~Board~~ <sup>Secretary who</sup> which

14 shall make <sup>a</sup> its determination after a formal hearing <sup>with affected parties</sup> conducted <sup>presented and</sup>

15 in accordance with the rules, regulations, and procedures

16 adopted by the ~~Board~~ <sup>Secretary</sup>.

17 SEC. <sup>3</sup>205. GENERAL PROVISIONS.—(a) Each contract

18 entered into by the Government shall contain such terms and

19 conditions as the agency head deems appropriate for the pro-

20 tection of the interests of the United States and the general

21 public, including appropriate provisions to—

22 (1) require periodic written reports at reasonable

23 intervals in the commercial utilization or efforts at ob-

24 taining commercial utilization that are being made by

25 the inventor or <sup>contractor or their</sup> his licensees or assignees: *Provided,*

1 That any such information may be treated by the Fed-  
2 eral agency as commercial <sup>or</sup> ~~and~~ financial <sup>information obtained from a person</sup> ~~and~~ confidential <sup>and privileged or</sup>  
3 tial and not subject to disclosure under the Freedom of  
4 Information Act;

5 (2) reserve to the United States at least an irrevocable,  
6 nonexclusive, paid-up license to make, use, and  
7 sell the invention throughout the world by or on behalf  
8 of the United States and States and domestic municipal  
9 governments, unless the agency determines that it  
10 would not be in the public interest to acquire the li-  
11 cense for the States and domestic municipal govern-  
12 ments;

13 (3) require the prompt disclosure by the contractor  
14 or inventor to that agency of any invention made under  
15 the contract; <sup>Provided, That Federal agencies are authorized to</sup> ~~and withhold from disclosure to the public, information~~  
16 <sup>discussing any invention made under a contract of an agency</sup>  
17 <sup>for a reasonable time in order for a United States or</sup>  
18 (4) reserve to the United States and the contrac-  
19 tor or inventor rights in each such invention in con-  
20 formity with the provisions of this title.

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

24 SEC. 206. BACKGROUND RIGHTS.—Nothing contained  
25 in this Act shall be construed as to deprive the owner of any  
background patent relating thereto or to such rights as he  
may have thereunder.

*foreign patent application to be filed*

1 TITLE III—ALLOCATION OF RIGHTS—FEDERAL  
2 EMPLOYEES

3 SEC. 301. ALLOCATION OF RIGHTS.—(a) Except as  
4 otherwise provided in subsections (b) and (c), the Government  
5 shall obtain the entire right, title, and interest in and to all  
6 inventions made by any Federal employee if the agency head  
7 determines that—

8 (1) the invention was made or conceived during  
9 working hours;

10 (2) the invention was made or conceived with a  
11 contribution by the Government of facilities, equip-  
12 ment, materials, funds, or information, or of time or  
13 services of other Government employees on official  
14 duty; or

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

18 (b) Where the interest of the Government is insufficient  
19 to require retention of title by the Government but the inven-  
20 tion bears an indirect relation to the duties of the Federal  
21 employee-inventor, the employee shall have the option of ac-  
22 quiring title to such invention, subject, however, to the reser-  
23 vation by the Government of a nonexclusive, irrevocable,  
24 royalty-free license in the invention with the power to grant  
25 licenses for all governmental purposes. The Government

1 shall obtain title to any invention for which this option is not  
2 exercised.

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

7 SEC. 302. PRESUMPTION OF OWNERSHIP.—(a) In ap-  
8 plying the criteria of section 301 to the facts and circum-  
9 stances relating to the making of any particular invention, it  
10 shall be presumed that an invention falls within the criteria of  
11 section 301(a) when made by a Federal employee who is em-  
12 ployed or assigned to—

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

15 (2) conduct or perform research or development  
16 work, or both;

17 (3) supervise, direct, coordinate, or review federal-  
18 ly financed or conducted research or development  
19 work, or both; or

20 (4) act in a liaison capacity among Federal or  
21 non-Federal agencies or individuals engaged in such  
22 work.

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

1       SEC. 303. REVIEW.—Federal agency determinations  
2 regarding the respective rights of the Federal Government  
3 and the Federal employee-inventor are to be reviewed by the  
4 Board in accordance with rules, regulations, and procedures  
5 adopted by that body whenever—

6               (1) the Federal agency fails to obtain title under  
7 (a) the provisions of section 301(a); or

8               (2) the Federal employee-inventor who claims to  
9 be aggrieved by the determination requests such a  
10 review;

11       SEC. 304. INCENTIVES AWARDS PROGRAM.—(a) Sub-  
12 ject to the provisions of this section, the agency head is au-  
13 thorized, upon his own initiative or upon application of any  
14 person, to make a monetary award or otherwise offer recog-  
15 nition, in such amount and upon such terms as he shall deem  
16 appropriate, to any Federal employee-inventor for any scien-  
17 tific or technical invention determined by the agency head to  
18 have significant value.

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

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

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

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

5 (3) the importance of the invention in terms of its  
6 value and benefits to the Government and the United  
7 States;

8 (4) the extent to which the invention has achieved  
9 utilization by the public; and

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

13 (d) If more than one applicant under subsection (a)  
14 claims an interest in the same contribution, the agency head  
15 shall ascertain the respective interest of such applicants, and  
16 shall apportion any award to be made with respect to such  
17 invention among such applicants in such proportions as he  
18 shall determine to be equitable.

19 (e) No award may be made under subsection (a) with  
20 respect to any invention unless the applicant surrenders, by  
21 such means as the agency head shall determine to be effec-  
22 tive, all claims which such applicant may have to receive any  
23 compensation (other than the award made under this section)  
24 for the use of such invention or any element thereof at any  
25 time by or on behalf of the United States or by or on behalf of

1 any foreign government pursuant to any treaty or agreement  
2 with the United States, within the United States or at any  
3 other place.

4 (f) No award may be made under subsection (a) in any  
5 amount exceeding \$100,000, unless the agency head has  
6 transmitted to the appropriate committees of the Congress a  
7 full and complete report concerning the amount and terms of,  
8 and the basis for, such proposed award, and thirty calendar  
9 days of regular session of the Congress have expired after  
10 receipt of such report by such committees.

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

14 TITLE IV—FEDERAL TECHNOLOGY UTILIZATION  
15 PROGRAM

16 SEC. 401. POLICY.—(a) The Congress finds and de-  
17 clares that the large number of inventions owned by the Gov-  
18 ernment constitutes a valuable national resource which is not  
19 being effectively exploited for commercial utilization. There  
20 is a need for better coordination and direction of Federal ef-  
21 forts to facilitate expeditious development of the products of  
22 federally sponsored science and technology research and  
23 development.



1 (b) It is the purpose of this title to establish a program  
2 for the efficient utilization of the results of Federal science  
3 and technology research and development.

4 SEC. 402. ESTABLISHMENT.—(a) To assist in carrying  
5 out the purpose of this title, the Secretary of Commerce, in  
6 cooperation with other Government agencies, shall establish  
7 and maintain a Federal technology utilization program. *Secretary*

8 (b) The Secretary of Commerce is authorized under this  
9 program to take such action as may be necessary to assure  
10 the utilization and protection of patents or other rights in  
11 Government-owned inventions, including but not limited to  
12 the authority to—

13 (1) assist and coordinate agency efforts to promote  
14 the licensing and utilization of Government-owned pat-  
15 ents and inventions;

16 (2) accept custody and administration, in whole or  
17 in part, of Government rights in any invention for the  
18 purpose of protecting the United States interest therein  
19 and promoting the effective utilization of any such  
20 invention;

21 (3) develop and manage a Government-wide pro-  
22 gram designed to stimulate the transfer of Govern-  
23 ment-owned technology to the private sector through  
24 the development, demonstration, and dissemination of  
25 information regarding potential applications;

1           (4) evaluate inventions referred by Government  
2 agencies and patent applications filed thereon in order  
3 to identify those inventions with the greatest commer-  
4 cial potential and to insure promotion of inventions so  
5 identified;

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

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

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

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

23          (9) receive funds from fees, royalties, sales, or  
24 other management of Government-owned inventions  
25 authorized under this Act: *Provided, however, That*

1 such funds will be used only for the purpose of this  
2 Act.

3 SEC. 403. AGENCY TECHNOLOGY UTILIZATION

4 PROGRAM.—To assist in the transfer of Government-owned  
5 innovative technology resulting from Federal research and  
6 development for application and use in industry, agriculture,  
7 medicine, transportation, and other critical sectors of the  
8 economy, each Federal agency shall develop and implement a  
9 technology utilization program. Specific program objectives

10 shall include, but not be limited to—

11 (1) expedite and facilitate the application and use  
12 of technology by shortening the time between genera-

13 tion of advanced technologies and their use in the  
14 economy and provide greater incentives for use of so-

15 cially beneficial innovations;

16 (2) encourage multiple secondary uses of technol-

17 ogy in industry, education, and government where  
18 there is a wide spectrum of technological problems and  
19 needs; and

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

23 SEC. 404. PROTECTION OF RIGHTS.—Each agency  
24 head, with the assistance of the Attorney General when nec-  
25 essary, is authorized to take all suitable and necessary steps

*Down a curve*

*can be done with it in center etc*

1 to protect and enforce the rights of the United States in any  
2 invention.

3 **SEC. 405. JOINDER OF PARTIES.**—The grantee of any  
4 exclusive rights in any invention covered by a United States  
5 patent owned by the United States shall have the right to  
6 bring suit for patent infringement in the United States courts  
7 to enforce such rights without joining the United States as a  
8 party in such suit.

9 **TITLE V—FEDERAL REVIEW BOARD**

10 **SEC. 501. (a)** There is established within the executive  
11 branch of the Government a Federal Science and Technology  
12 Research and Development Utilization Review Board. The  
13 Board shall be composed of three members appointed by the  
14 President, with the advice and consent of the Senate. One  
15 member of the Board shall be designated Chairman by the  
16 President. The members first appointed shall continue in  
17 office for the terms of two, four, and six years, respectively,  
18 from the date of this Act, the term of each to be designated  
19 by the President. Thereafter their successors shall be ap-  
20 pointed for terms of six years. Members of the Board shall  
21 receive compensation of the rate specified for level V posi-  
22 tions in the Executive Schedule. The Board shall have au-  
23 thority, subject to the civil service and classification laws, to  
24 appoint such personnel, including hearing examiners, as are  
25 necessary in the exercise of its functions. The Board is au-

1 authorized to make such expenditures and enter into such con-  
2 tracts as are necessary in the exercise of its function. The  
3 Board shall have an official seal which shall be judicially  
4 noticed.

5 (b) The objects and purposes of the Board shall be to  
6 coordinate, direct, and review the implementation and admin-  
7 istration of a uniform Federal policy with respect to the own-  
8 ership of inventions resulting from federally sponsored re-  
9 search and development.

10 (c) With a view to obtaining uniform application of the  
11 policies of this Act, the Board is authorized and directed to—

12 (1) consult and advise with Federal agencies con-  
13 cerning the effective implementation and operation of  
14 the policies, purposes, and objectives of this Act;

15 (2) formulate and recommend to the President  
16 such proposed rules, regulations, and procedures neces-  
17 sary and desirable to assure the uniform application of  
18 the provisions of this Act;

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

22 (4) determine with finality any dispute between a  
23 Government agency and an aggrieved party arising  
24 under title II or title III of this Act; and

1 (5) perform such other duties as may be pre-  
 2 scribed by the President or by statute.

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

11 (e) Any Federal agency is authorized to provide for the  
 12 Board such services or personnel as the Board requests on  
 13 such basis, reimbursable or otherwise, as may be agreed upon  
 14 between the agency and the Chairman of the Board.

15 (f) The Board shall establish such interagency commit-  
 16 tees as are necessary to assist in the review and formulation  
 17 of uniform rules, regulations, and procedures implementing  
 18 the provisions of this Act.

19 **SEC. 502. AUTHORIZATION FOR APPROPRIATIONS.—**

20 (a) There are hereby authorized to be appropriated to the  
 21 Board such sums as may be necessary to carry out the provi-  
 22 sions of this Act.

## 1 TITLE VI—MISCELLANEOUS

2 SEC. 601. REPEAL OF EXISTING STATUTORY AU-  
3 THORIZATIONS.—The following Acts are hereby amended as  
4 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(e); 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. 3253(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. 602. EFFECTIVE DATE.—This Act shall take  
20 effect six months after the date of enactment of this Act.

21 SEC. 603. AUTHORIZATION FOR APPROPRIATIONS.—

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

95TH CONGRESS  
2D SESSION.

**S. 3627**

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**A BILL**

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

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By **MI SCHMITT**

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OCTOBER 15 (legislative day, OCTOBER 11), 1978

Read twice and referred to the Committee on Governmental  
Affairs