S. 1657 Original		S. 1657 Administration Bill		H.R. 4564 As Amended	
Title/ Section	Description	Title/ Section	Description	Title/ Section	Description
I	Policy	I	Policy	I	Policy
101	Findings	101	Findings	101	Findings
102	Purpose	102	Purpose	102	Declaration of Purpose This is more detailed than both versions of S. 1657
103	Definitions	103	Definitions	V 501	Definitions
	contract		contract		contract (similar to both bills)
	contractor		contractor		contractor (similar to both bills)
	disclosure		--		--
	Federal agency		Federal agency		Fed. agency (identical to both bills)
	Government		Government		--
	invention		invention (includes ref. to Plant		invention (most similar to Admin bill)
	inventor		-- Variety Protection Act)		--
	made under contract		--		made (similar to original bill)
	nonprofit organization		nonprofit organization		nonprofit organ. (ident. to both bills)
	person		--		person (defined per U.S.Code, Title 1)
	practical application		practical application (modifies orig.)		pract. app. (identical to orig.. bill)
	Secretary (of Commerce)		Sec'y (or other designated official)		--
	small business firm		small business firm		sm. bus. firm (doesn't include "size stds"
	--		Director (of OMB)		--
	--		subject invention		subj. invent. (similar to Admin. bil
	--		--		antitrust law

S. 1657 Original		S. 1250 Administration Bill		As Amended
Title/Section	Description	Title/Section	Description	Title/Section	Description
II	Implementation	II	Implementation	II	Functions of OSTP & FCCSET
201	Responsibilities	201	Responsibilities	201	FCCSET
a	Secretary (of Commerce) shall coordinate policy under the Act.	a	Director (of OMB) shall issue necessary regulations and standard contract provisions implementing rights, terms, conditions under Sec. 301 for all agencies.	a	FCCSET shall make recommendations to the Director of OSTP regarding planning/policies re patents and this Act. The Sec'y of Commerce shall chair a committee of FCCSET for this purpose.
b	Sec'y's duties re consistent policy, including consultation with the Office of Federal Procurement Policy	b	Sec'y's duties re consistent policy (minus consultation with Office of Fed. Procurement Policy (probably implicit in (a) above) minus Dept. of Commerce final administrative proceeding involving the parties, as required in the original bill).	b	Recommendations under (a) are to be transmitted to Federal agencies.
c	Sec'y's duties re effective management.	c	Sec'y's duties re effective management (minus receiving funds from fees, royalties, etc. under the Act as in the original bill).	c	FCCSET responsibilities for effective management,
d	Sec'y to submit annual report to Congress.	d	Sec'y to submit annual report to Congress		including annual report.
202	Expiration of Title II after 7 years unless renewed.	202	Expiration of Title II (b-d) after 7 years, unless revewed.		

Title/ Section	Original Description	Title/ Section	Administration Bill Description	Title/ Section	As Amended Description
III	Allocation of Rights-Gov't Contractors	III	Allocation of Rights-Gov't Contractor	III	Allocation of Property Rights in Inventions Resulting From Federally Sponsored R&D
301	Rights of the Government	301	(301-303 of original bill struck out) Disposition of Rights	301	Ownership & Rights of Gov't
a	Each Fed. agency shall acquire title under contracts involving: -Fed. R&D Centers -security reasons -exceptional circumstances -products, etc. for use by Gov't regulations	a	Each contractor has the option of retaining title worldwide or by country to any subject invention (cf. original Sec. 302 (a)). However, unless inconsistent with international agreements, Federal agencies may limit or eliminate this right if (cf. originalSec. 301 (a)): -security reasons (similar to original) -for-profit with no place of business in U.S. -university or non-profit not located in U.S. -contractor is subject to foreign government control -exceptional circumstances (similar to original bill)	a	Each Fed. agency shall acquire title under contracts involving: -Fed. R&D Centers -security reasons -exceptional circumstances, including DNA research -products, etc. for compliance with Government regulations -contract is not to be performed in U.S. or possessions -contractor is a business entity without a place of business in U.S. -contractor is subject to control of a foreign government
b	Agency must file a statement with the Secretary of Commerce re Sec. (a)	b	Agency must file a statement with the Secretary of Commerce re Sec. (a) within 30 days (except for security reasons). (Similar to Sec. 301 (b) of original bill.) Regarding security reasons, the Director of OMB may issue regulations for consistency.	b	In other situations, each Fed. agency shall acquire title if the contractor elects not to file a patent application in any country.
c	Inventor/contractor must report on commercialization.				Each Fed. agency has the right to require contractor reports on commercialization
	U.S. Gov't has an irrevocable, non-exclusive, nontransferable, paid-up license.				U.S. Gov't has a nonexclusive, nontransferable, irrevocable, paid-up license.

S. 1657 Original		S. 1657 Administration Bill		As Amended	
Title/Section	Description	Title/Section	Description	Title/Section	Description
302	Rights of the Contractor	301 c-e 302	Disposition of Rights (Continued) General Provisions	302	Rights of Contractor
a	Other than cases under Sec. 301 (a), contractor has the option of retaining title.		Generally contain the provisions found in the following sections of the original version of S. 1657, considerably rearranged, plus provisions not found in the original bill:	a	Other than cases under Sec. 301 (a), contractor has the option of retaining title (same as original S. 1657).
b	When Government obtains title under Sec. 301,,contractor has non-exclusive, royalty-free license.		Orig. bill: 301, Rights of the Gov't — Administration bill: Mainly 301 (c)(7)& (9), 301 (e), 302 (d) Orig. bill: 302, Rights of the Contractor — Administration bill: 301 (a), 301 (c)(3) & (12) Orig. bill: 305, General Provisions — Administration bill: Mainly 301 (c) & (d) 302 (c), 201 (a)	b	When Gov't. obtains title under Sec. 301, contractor has non-exclusive, royalty-free license (same as original S. 1657), plus contractor's license includes the the right to sublicense.
				c	Similar to Sec. 302 (a) of Administration bill.
				d	Similar to Sec. 302 (b) of Administration bill.
305	General Provisions		Basically, the Administration bill is more specific about requiring a contractor to take steps to commercialize an invention, such as filing initial patent applications both domestically and internationally.	305	General Provisions
a	Each contract shall use a single patent rights clause including 5 provisions.			a	Each contract shall use a single patent rights clause including 5 provisions very similar to original S. 1657, except that the single patent rights clause shall be determined by uniform regulations issued by the Administrator of General Services, the Administrator of NASA, and the Sec'y of Defense.
			Additional provisions not found in the original bill include:		
		301 c	Each contract shall contain appropriate provisions to effectuate the following:		
b	Under Sec. 304 (March-In Rights) the Federal agency may specify the terms and conditions. (Under the Administration bill, this provision seems to be covered by Sec. 201 (a), which replaces the original bill's Sec. 201 (a)).	(2)	employees and others under the contract must report subject inventions to the contractor	b	Under Sec. 304 (March-In Rights) the Federal agency may specify the terms and conditions. (Very similar to Sec. 305 (b) of original S. 1657.) (Under the Administration bill, this provision seems to be covered by Sec 201 (a), which replaces the original bill's Sec. 201 (a).)

S. 1657 Original Title/Section	Description	S. 1657 Administration Bill Title/Section	Description	H.R. 5564 As Amended Title/Section	Description
		(5)	contractor electing rights to inventions must file in other countries within a reasonable time in order to retain title	c	Regulations under Sec. 305 (a) may contain provisions applicable only to contractors which are nonprofits, small business, or other contractors.
		(6)	upon written request by the Federal agency, the contractor will transfer title to any subject invention to the Government in any country under certain conditions	d	Provisions of the Act do not apply to TVA. (The definition of "contract" in the Administration's bill excludes TVA.)
		(8)	when subject inventions are subject to international agreements, the contractor will convey any required licenses or assignment of rights in specific countries to the Gov't		
		(11)	similar to "disposition of rights" subsections of P.L. 96-517, Sec. 202 (c)(7)(A), (C), and (D) regarding the assignment of rights to a subject invention by nonprofit organizations located in the U.S.		
		(13)	any other administrative requirements that the Director of OMB determines to be necessary to effectuate the rights of the Government		
		302		302	(repeated from above)
		a	If the contractor does not elect to retain worldwide title, the Federal agency may grant requests for retention of rights by the inventor.	c	Similar to Sec. 302 (a) of Administration bill.
		b	When Fed. employee is a coinventor, Fed. agency may transfer rights which it may acquire in the subject invention to the contractor.	d	Similar to Sec. 302 (b) of Administration bill.
		c	Notification of a patent's issuance in the PTO Official Gazette shall indicate invention was made with Gov't funds.		

S. 1657 Original		S. 1657 Administration Bill		H.R. 4564 As Amended	
Title/Section	Description	Title/Section	Description	Title/Section	Description
303	Waiver Federal agency may waive its rights under Sec. 301	301 d	Waiver Similar to Sec. 303 of both original S. 1657 and H.R. 4564 as amended, plus a section similar to Sec. 305 (a)(5)(A) of both original S. 1657 and H.R. 4564 as amended.	303	Waiver Federal agency may its rights under Sec. 301 (a) (identical to Sec. 303 of original S. 1657 and similar to Sec. 301 (d) of the Administration bill <u>minus</u> Subsec. (2)).
304	March-In Rights	303	March-In Rights	304	March-In Rights
a	Agency has the right to require the contractor to grant a license under 4 conditions, including lessening of competition and inconsistency with antitrust laws.	a	Agency has the right to require the contractor to grant a license under 3 conditions (eliminates the fourth condition of the original bill re lessening of competition or undue market concentration and inconsistency with antitrust laws).	a	Agency has the right to require the contractor to grant a license under 4 conditions (almost identical to original S. 1657).
b	Agency rights under (a) are subject to the Secretary's approval after a formal hearing.	b	Eliminates (b) of original bill and substitutes a procedure to settle disputes under this section by recourse to the U.S. Court of Claims rather than the Sec'y of Commerce.	b	Agency rights under (a) are to be determined after a hearing, but without reference to the Sec'y of of Commerce approval as required by original S. 1657.

S. 1657 Original		S. 1657 Administration Bill		H.R. 4564 As Amended	
Title/Section	Description	Title/Section	Description	Title/Section	Description
		304	Appeals (No equivalent section in original S. 1657)	306	Judicial Review (No equivalent section in original S. 1657)
		a	Agency decisions to take title to inventions under Sec. 301 (c)(1) and Sec. 301 (c)(6)(ii) and (iii) and agency refusal to grant approval of an assignment of rights by a non-profit organization under Sec. 301 (c)(11) shall be accompanied by written explanatio to the contractor.		Any person adversely affected by a Federal agency determination under this Act has 60 days thereafter to file a petition with the U.S. Court of Customs and Patent Appeals.
		b	Within 30 days, the contractor may appeal to the head of the agency.		
		c	The agency head shall determine issues of fact after affording the contractor a hearing.		
		d	The procedures under the Contract Disputes Act will satisfy the requirements of this section.		

S. 1657 Original		S. 1657 Administration Bill		H.R. 4564 As Amended	
Title/Section	Description	Title/Section	Description	Title/Section	Description
				307	Contractor's Payments to the Government (No equivalent section in either version of S. 1657.)
				a	The Administrator of General Services, the Administrator of NASA, and the Sec'y of Defense shall issue regulations for payment to the Government by a contractor, except for small business firms or nonprofits, of an equitable share of royalties received from a patent or subject invention under 2 conditions, but not to exceed Government funds expended except by agreement.
				b	A Federal agency may waive payments under (a) under 5 conditions.
				c	Such regulations to be promulgated within 12 months of enactment, but shall not take effect if either House of Congress adopts a resolution disapproving such regulations.
				d	Until the regulations become effective, the agencies shall obtain payment on a contract-by-contract basis.

S. 1657 Original		S. 1657 Administration Bill		H.R. 4564 As Amended	
Title/Section	Description	Title/Section	Description	Title/Section	Description
306	Background Rights	305 a,b	Background Rights To the one-sentence statement in the original bill, Subsec. (b), the Administration bill adds, in effect, Sec. 202 (f) of P.L. 96-517 regarding third-party licensing prohibition of inventions owned by the contractor that are not subject inventions, specifically for funding agreements with small business firms or non-profit organizations.	308	Background Rights (Identical to original S. 1657.)
307	Government Licensing Authority A Federal agency may grant exclusive or partically exclusive licenses in which the Government has acquired title, under 3 conditions.	IV 401-403	Licensing of Government Owned Inventions (This replaces Sec. 307 of the original S. 1657.) Identical to the following sections of P.L. 96-517 with the exceptions noted: Sec. 207 (identical except for technical additions) Sec. 208 (Administration bill adds a requirement for concurrence of the Director of OMB) Sec. 209 (except Subsec. (c)(2) and (d), which prohibit licensing which would tend to lessen competition or be inconsistent with antitrust laws. See Subsec. (a) of the March-In Rights provisions of both versions of S. 1657; the Administration version of S. 1657 deletes a similar provision from the March-In Rights provisions found in the original bill.)	IV 401	Domestic and Foreign Protection and Licensing of Federally Owned Inventions (This replaces Sec. 307 of the original S. 1657.) Similar to the following sections of P.L. 96-517 with the exceptions noted: Authority of Federal Agencies Sec. 207, delineates specific steps in Subsec. 401 (2) through (5) of H.R. 4564 as amended that expand upon Subsec. (3) of Sec. 207 of P.L. 96-517 maximizing benefits to the public and Federal Gov't; adds to Subsec. (4) of Sec. 207 by increasing the role of the Dept. of Commerce in receiving custody and administration of inventions and receiving royalties therefrom.

Original		Administration Bill		As Amended	
Title/ Section	Description	Title/ Section	Description	Title/ Section	Description
				402	Authority of the Sec'y of Commerce in Cooperation With Other Federal Agencies Gives the Sec'y of Commerce a role in coordinating a program to carry out Sec. 401. (No equivalent section in P.L. 96-517.)
				403	Authority of Administrator of General Services (Identical to Sec. 208 of P.L.96-517, Regulations Governing Fed. Licensing, except that it does not exclude TVA.)
				404 a-c	Grants of an Exclusive or Partially Exclusive License Similar to Sec. 209 of P.L. 96-517, Restrictions on Licensing of Federally Owned Inventions, except: Sec. 209 (a) and (b) dealing with (a) development of a marketing plan by the contractor and (b) U.S. manufacture of the invention, are deleted. Sec. 209 (c)(3) dealing with small business preference is deleted. Sec. 209 (c)(2) and (d) dealing with antitrust factors delete references to the granting of licenses that would tend to lessen competition.

Title/ Section	S. 1657 Original — Description	Title/ Section	S. 1657 Administration Bill — Description	Title/ Section	H.R. 1507 As Amended — Description
				d	The language of Sec. 209 (f) regarding the terms and conditions in any grant of a license by a Federal agency, appropriate for the protection of the interests of the Federal Government and the public, requires provisions which differ significantly from Sec. 404 (d) of H.R. 4564 as amended, although they are similar in overall intent to protect the Federal Government's and the public's interests.
IV	Miscellaneous	V	Miscellaneous	V	Miscellaneous
401	Acts amended	501	Repeal of Existing Statutory R&D Auth	503	Identified Act Amended
			Identical to Sec. 401 of original S. 1657 with a notation that " a number of additions and technical corrections are required in this section."		Similar, but not identical to acts amended by both versions of S. 1657.
		502	Relationship to Antitrust Laws	502	Relationship to Other Laws
			(No equivalent section in the original bill.)		
		a	Defines "acquisition of assets" for allegations of violation of Sec. 7 of the Clayton Act.		
		b	No immunity conveyed by this Act under any antitrust law.		(Similar to Sec. 502 (b) of the Administration bill regarding not granting immunity under any antitrust law.)

S. 1657 Original		S. 1657 Administration Bill		H.R. 4564 As Amended
Title/Section	Description	Title/Section	Description	Title/Section	Description
402	Effective date--6 months after enactment.	503		504	Effective date--first day of the seventh month after enactment.
		a	Effective date--9 months after enactment.		
			(The following have no equivalent sections in the original bill and H.R. 4564 as amended.)		
		b	After the effective date, if the contractor agrees, prior contracts may be amended to substitute contract provisions issued by the Director of OMB under Sec. 201 (a).		
		c	After the effective date, each Fed. agency is authorized to allow a contractor or inventor to retain title made under prior contracts under the same conditions as if this Act and the Director's (of OMB) regulations had been in force.		