CHAPTER 63—TECHNOLOGY INNOVATION

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§ 3701. Findings

The Congress finds and declares that:

(1) Technology and industrial innovation are central to the economic, environmental, and social well-being of citizens of the United States.

(2) Technology and industrial innovation offer an improved standard of living, increased public and private sector productivity, creation of new industries and employment opportunities, improved public services and enhanced competitiveness of United States products in world markets.

(3) Many new discoveries and advances in science occur in universities and Federal laboratories, while the application of this new knowledge to commercial and useful public purposes depends largely upon actions by business and labor. Cooperation among academia, Federal laboratories, labor, and industry, in such forms as technology transfer, personnel exchange, joint research projects, and others, should be renewed, expanded, and strengthened.

(4) Small businesses have performed an important role in advancing industrial and technological innovation.

(5) Industrial and technological innovation in the United States may be lagging when compared to historical patterns and other industrialized nations.

(6) Increased industrial and technological innovation would reduce trade deficits, stabilize the dollar, increase productivity gains, increase employment, and stabilize prices.

(7) Government antitrust, economic, trade, patent, procurement, regulatory, research and development, and tax policies have significant impacts upon industrial innovation and development of technology, but there is insufficient knowledge of their effects in particular sectors of the economy.

(8) No comprehensive national policy exists to enhance technological innovation for commercial and public purposes. There is a need for such a policy, including a strong national policy supporting domestic technology transfer and utilization of the science and technology resources of the Federal Government.

(9) It is in the national interest to promote the adaptation of technological innovations to State and local government uses. Technological innovations can improve services, reduce their costs, and increase productivity in State and local governments.

(10) The Federal laboratories and other performers of federally funded research and development frequently provide scientific and technological developments of potential use to State and local governments and private industry. These developments should be made accessible to those governments and industry. There is a need to provide means of access and to give adequate personnel and funding support to these means.

(11) The Nation should give fuller recognition to individuals and companies which have made outstanding contributions to the promotion of technology or technological manpower for the improvement of the economic, environmental, or social well-being of the United States.

(Pub.L. 96–480, § 2, Oct. 21, 1980, 94 Stat. 2311.)

Historical Note

Short Title. Section 1 of Pub.L. 96–480 provided: "That this Act [enacting this chapter] may be cited as the 'Stevenson-Wydler Technology Innovation Act of 1980'."

Legislative History. For legislative history and purpose of Pub.L. 96–480, see 1980 U.S. Code and Adm.News, p. 4892.

Library References

Health and Environment ⇐25.5(3).
C.J.S. Health and Environment §§ 91 et seq., 106 et seq., 129 et seq.

§ 3702. Purpose

It is the purpose of this chapter to improve the economic, environmental, and social well-being of the United States by—

(1) establishing organizations in the executive branch to study and stimulate technology;

(2) promoting technology development through the establishment of centers for industrial technology;

(3) stimulating improved utilization of federally funded technology developments by State and local governments and the private sector;

(4) providing encouragement for the development of technology through the recognition of individuals and companies which have made outstanding contributions in technology; and

(5) encouraging the exchange of scientific and technical personnel among academia, industry, and Federal laboratories.

(Pub.L. 96–480, § 3, Oct. 21, 1980, 94 Stat. 2312.)

Historical Note

Legislative History. For legislative history and purpose of Pub.L. 96–480, see 1980 U.S. Code Cong. and Adm.News, p. 4892.

Library References

Health and Environment ⇐25.5(2).
C.J.S. Health and Environment §§ 61 et seq., 91 et seq., 106 et seq., 115 et seq., 125 et seq., 133 et seq.

§ 3703. Definitions

As used in this chapter, unless the context otherwise requires, the term—

(1) "Office" means the Office of Industrial Technology established under section 3704 of this title.

(2) "Secretary" means the Secretary of Commerce.

(3) "Director" means the Director of the Office of Industrial Technology, appointed pursuant to section 3704 of this title.

(4) "Centers" means the Centers for Industrial Technology established under section 3705 or section 3707 of this title.

(5) "Nonprofit institution" means an organization owned and operated exclusively for scientific or educational purposes, no part of the net earnings of which inures to the benefit of any private shareholder or individual.

(6) "Board" means the National Industrial Technology Board established pursuant to section 3709 of this title.

(7) "Federal laboratory" means any laboratory, any federally funded research and development center, or any center established under section 3705 or section 3707 of this title that is owned and funded by the Federal Government, whether operated by the Government or by a contractor.

(8) "Supporting agency" means either the Department of Commerce or the National Science Foundation, as appropriate.

(Pub.L. 96–480, § 4, Oct. 21, 1980, 94 Stat. 2312.)

Historical Note

Legislative History. For legislative history and purpose of Pub.L. 96–480, see 1980 U.S. Code Cong. and Adm.News, p. 4892.

§ 3704. Commerce and technological innovation

(a) In general.—The Secretary shall establish and maintain an Office of Industrial Technology in accordance with the provisions, findings, and purposes of this chapter.

(b) Director.—The President shall appoint, by and with the advice and consent of the Senate, a Director of the Office, who shall be compensated at the rate provided for level V of the Executive Schedule in section 5316 of Title 5.

(c) Duties.—The Secretary, through the Director, on a continuing basis, shall—

(1) determine the relationships of technological developments and international technology transfers to the output, employment, productivity, and world trade performance of United States and foreign industrial sectors;

(2) determine the influence of economic, labor and other conditions, industrial structure and management, and government policies on technological developments in particular industrial sectors worldwide;

(3) identify technological needs, problems, and opportunities within and across industrial sectors that, if addressed, could make a significant contribution to the economy of the United States;

(4) assess whether the capital, technical and other resources being allocated to domestic industrial sectors which are likely to generate new technologies are adequate to meet private and social demands for goods and services and to promote productivity and economic growth;

(5) propose and support studies and policy experiments, in cooperation with other Federal agencies, to determine the effectiveness of measures with the potential of advancing United States technological innovation;

(6) provide that cooperative efforts to stimulate industrial innovation be undertaken between the Director and other officials in the Department of Commerce responsible for such areas as trade and economic assistance;

(7) consider government measures with the potential of advancing United States technological innovation and exploiting innovations of foreign origin; and

(8) publish the results of studies and policy experiments.

(d) Report.—The Secretary shall prepare and submit to the President and Congress, within 3 years after October 21, 1980, a report on the progress, findings, and conclusions of activities conducted pursuant to this section and sections 3705, 3707, 3710, 3711, and 3712 of this title and recommendations for possible modifications thereof.

(Pub.L. 96–480, § 5, Oct. 21, 1980, 94 Stat. 2312.)

Historical Note

Legislative History. For legislative history and purpose of Pub.L. 96–480, see 1980 U.S. Code Cong. and Adm.News, p. 4892.

Library References

Health and Environment ⇐25.5(9).
C.J.S. Health and Environment §§ 65, 66, 103, 107, 140 et seq.

§ 3705. Centers for Industrial Technology

(a) Establishment.—The Secretary shall provide assistance for the establishment of Centers for Industrial Technology. Such Centers shall be affiliated with any university, or other nonprofit institution, or group thereof, that applies for and is awarded a grant or enters into a cooperative agreement under this section. The objective of the Centers is to enhance technological innovation through—

(1) the participation of individuals from industry and universities in cooperative technological innovation activities;

(2) the development of the generic research base, important for technological advance and innovative activity, in which individual firms have little incentive to invest, but which may have significant economic or strategic importance, such as manufacturing technology;

(3) the education and training of individuals in the technological innovation process;

(4) the improvement of mechanisms for the dissemination of scientific, engineering, and technical information among universities and industry;

(5) the utilization of the capability and expertise, where appropriate, that exists in Federal laboratories; and

(6) the development of continuing financial support from other mission agencies, from State and local government, and from industry and universities through, among other means, fees, licenses, and royalties.

(b) Activities.—The activities of the Centers shall include, but need not be limited to—

(1) research supportive of technological and industrial innovation including cooperative industry-university basic and applied research;

(2) assistance to individuals and small businesses in the generation, evaluation, and development of technological ideas supportive of industrial innovation and new business ventures;

(3) technical assistance and advisory services to industry, particularly small businesses; and

(4) curriculum development, training, and instruction in invention, enterpreneurship, and industrial innovation.

Each Center need not undertake all of the activities under this subsection.

(c) Requirements.—Prior to establishing a Center, the Secretary shall find that—

(1) consideration has been given to the potential contribution of the activities proposed under the Center to productivity, employment, and economic competitiveness of the United States;

(2) a high likelihood exists of continuing participation, advice, financial support, and other contributions from the private sector;

(3) the host university or other nonprofit institution has a plan for the management and evaluation of the activities proposed within the particular Center, including:

(A) the agreement between the parties as to the allocation of patent rights on a nonexclusive, partially exclusive, or exclusive license basis to and inventions conceived or made under the auspices of the Center; and

(B) the consideration of means to place the Center, to the maximum extent feasible, on a self-sustaining basis;

(4) suitable consideration has been given to the university's or other nonprofit institution's capabilities and geographical location; and

(5) consideration has been given to any effects upon competition of the activities proposed under the Center.

(d) **Planning grants.**—The Secretary is authorized to make available nonrenewable planning grants to universities or nonprofit institutions for the purpose of developing a plan required under subsection (c)(3) of this section.

(e) **Research and development utilization.**—(1) To promote technological innovation and commercialization of research and development efforts, each Center has the option of acquiring title to any invention conceived or made under the auspices of the Center that was supported at least in part by Federal funds: *Provided,* That—

(A) the Center reports the invention to the supporting agency together with a list of each country in which the Center elects to file a patent application on the invention;

(B) said option shall be exercised at the time of disclosure of invention or within such time thereafter as may be provided in the grant or cooperative agreement;

(C) the Center intends to promote the commercialization of the invention and file a United States patent application;

(D) royalties be used for compensation of the inventor or for educational or research activities of the Center;

(E) the Center make periodic reports to the supporting agency, and the supporting agency may treat information contained in such reports as privileged and confidential technical, commercial, and financial information and not subject to disclosures under the Freedom of Information Act; and

(F) any Federal department or agency shall have the royalty-free right to practice, or have practiced on its behalf, the invention for governmental purposes.

The supporting agency shall have the right to acquire title to any patent on an invention in any country in which the Center elects not to file a patent application or fails to file within a reasonable time.

(2) Where a Center has retained title to an invention under paragraph (1) of this subsection the supporting agency shall have the right to require the Center or its licensee to grant a nonexclusive, partially exclusive, or exclusive license to a responsible applicant or applicants, upon terms that are reasonable under the circumstances, if the supporting agency determines, after public notice and opportunity for hearing, that such action is necessary—

(A) because the Center or licensee has not taken and is not expected to take timely and effective action to achieve practical application of the invention;

(B) to meet health, safety, environmental, or national security needs which are not reasonably satisfied by the contractor or licensee; or

(C) because the granting of exclusive rights in the invention has tended substantially to lessen competition or to result in undue market concentration in the United States in any line of commerce to which the technology relates.

(3) Any individual, partnership, corporation, association, institution, or other entity adversely affected by a supporting agency determination made under paragraph (2) of this subsection may, at any time within 60 days after the determination is issued, file a petition to the United States Court of Claims which shall have jurisdiction to determine that matter de novo and to affirm, reverse, or modify as appropriate, the determination of the supporting agency.

(f) **Additional consideration.**—The supporting agency may request the Attorney General's opinion whether the proposed joint research activities of a Center would violate any of the antitrust laws. The Attorney General shall advise the supporting agency of his determination and the reasons for it within 120 days after receipt of such request.

(Pub.L. 96-480, § 6, Oct. 21, 1980, 94 Stat. 2313.)

Historical Note

References in Text. The Freedom of Information Act, referred to in subsec. (e), is classified to section 552 of Title 5, Government Organization and Employees.

The antitrust laws, referred to in subsec. (f), are classified generally to chapter 1 (section 1 et seq.) of this title.

Legislative History. For legislative history and purpose of Pub.L. 96-480, see 1980 U.S. Code Cong. and Adm.News, p. 4892.

Library References

Health and Environment ⇐25.5(9).
C.J.S. Health and Environment §§ 65, 66, 103, 107, 140 et seq.

§ 3706. Grants and cooperative agreements

(a) **In general.**—The Secretary may make grants and enter into cooperative agreements according to the provisions of this section in order to assist any activity consistent with this chapter, including activities performed by individuals. The total amount of any such grant or cooperative agreement may not exceed 75 percent of the total cost of the program.

(b) **Eligibility and procedure.**—Any person or institution may apply to the Secretary for a grant or cooperative agreement available under this section. Application shall be made in such form and manner, and with such content and other submissions, as the Director shall prescribe. The Secretary shall act upon each such application within 90 days after the date on which all required information is received.

(c) **Terms and conditions.**—

(1) Any grant made, or cooperative agreement entered into, under this section shall be subject to the limitations and provisions set forth in

paragraph (2) of this subsection, and to such other terms, conditions, and requirements as the Secretary deems necessary or appropriate.

(2) Any person who receives or utilizes any proceeds of any grant made or cooperative agreement entered into under this section shall keep such records as the Secretary shall by regulation prescribe as being necessary and appropriate to facilitate effective audit and evaluation, including records which fully disclose the amount and disposition by such recipient of such proceeds, the total cost of the program or project in connection with which such proceeds were used, and the amount, if any, of such costs which was provided through other sources.

(Pub.L. 96–480, § 7, Oct. 21, 1980, 94 Stat. 2315.)

Historical Note

Legislative History. For legislative history and purpose of Pub.L. 96–480, see 1980 U.S. Code Cong. and Adm.News, p. 4892.

Library References

Health and Environment ⇐25.5(9).
C.J.S. Health and Environment §§ 65, 66, 103, 107, 140 et seq.

§ 3707. National Science Foundation Centers for Industrial Technology

(a) Establishment and provisions.—The National Science Foundation shall provide assistance for the establishment of Centers for Industrial Technology. Such Centers shall be affiliated with a university, or other nonprofit institution, or a group thereof. The objective of the Centers is to enhance technological innovation as provided in section 3705(a) of this title through the conduct of activities as provided in section 3705(b) of this title. The provisions of sections 3705(e) and 3705(f) of this title shall apply to Centers established under this section.

(b) Planning grants.—The National Science Foundation is authorized to make available nonrenewable planning grants to universities or nonprofit institutions for the purpose of developing the plan, as described under section 3705(c)(3) of this title.

(c) Terms and conditions.—Grants, contracts, and cooperative agreements entered into by the National Science Foundation in execution of the powers and duties of the National Science Foundation under this chapter shall be governed by the National Science Foundation Act of 1950 and other pertinent Acts.

(Pub.L. 96–480, § 8, Oct. 21, 1980, 94 Stat. 2316.)

Historical Note

References in Text. The National Science Foundation Act of 1950, referred to in subsec. (c), is Act May 10, 1950, c. 171, 64 Stat. 149, as amended, which is classified generally to chapter 16 (section 1861 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 1861 of Title 42 and Tables volume.

Legislative History. For legislative history and purpose of Pub.L. 96–480, see 1980 U.S. Code Cong. and Adm.News, p. 4892.

§ 3708. Administrative arrangements

(a) Coordination.—The Secretary and the National Science Foundation shall, on a continuing basis, obtain the advice and cooperation of departments and agencies whose missions contribute to or are affected by the programs established under this chapter, including the development of an agenda for research and policy experimentation. These departments and agencies shall include but not be limited to the Departments of Defense, Energy, Education, Health and Human Services, Housing and Urban Development, the Environmental Protection Agency, National Aeronautics and Space Administration, Small Business Administration, Council of Economic Advisers, Council on Environmental Quality, and Office of Science and Technology Policy.

(b) Cooperation.—It is the sense of the Congress that departments and agencies, including the Federal laboratories, whose missions are affected by, or could contribute to, the programs established under this chapter, should, within the limits of budgetary authorizations and appropriations, support or participate in activities or projects authorized by this chapter.

(c) Administrative authorization.—

(1) Departments and agencies described in subsection (b) of this section are authorized to participate in, contribute to, and serve as resources for the Centers and for any other activities authorized under this chapter.

(2) The Secretary and the National Science Foundation are authorized to receive moneys and to receive other forms of assistance from other departments or agencies to support activities of the Centers and any other activities authorized under this chapter.

(d) Cooperative efforts.—The Secretary and the National Science Foundation shall, on a continuing basis, provide each other the opportunity to comment on any proposed program of activity under section 3705, 3707, or 3712 of this title before funds are committed to such program in order to mount complementary efforts and avoid duplication.

(Pub.L. 96–480, § 9, Oct. 21, 1980, 94 Stat. 2316.)

Historical Note

Legislative History. For legislative history and purpose of Pub.L. 96–480, see 1980 U.S. Code Cong. and Adm.News, p. 4892.

Library References

Health and Environment ⇐25.5(9).
C.J.S. Health and Environment §§ 65, 66, 103, 107, 140 et seq.

§ 3709. National Industrial Technology Board

(a) **Establishment.**—There shall be established a committee to be known as the National Industrial Technology Board.

(b) **Duties.**—The Board shall take such steps as may be necessary to review annually the activities of the Office and advise the Secretary and the Director with respect to—

(1) the formulation and conduct of activities under section 3704 of this title;

(2) the designation and operation of Centers and their programs under section 3705 of this title including assistance in establishing priorities;

(3) the preparation of the report required under section 3704(d) of this title; and

(4) such other matters as the Secretary or Director refers to the Board, including the establishment of Centers under section 3707 of this title, for review and advice.

The Director shall make available to the Board such information, personnel, and administrative services and assistance as it may reasonably require to carry out its duties. The National Science Foundation shall make available to the Board such information and assistance as it may reasonably require to carry out its duties.

(c) **Membership, terms, and powers.**—

(1) The Board shall consist of 15 voting members who shall be appointed by the Secretary. The Director shall serve as a nonvoting member of the Board. The members of the Board shall be individuals who, by reason of knowledge, experience, or training are especially qualified in one or more of the disciplines and fields dealing with technology, labor, and industrial innovation or who are affected by technological innovation. The majority of the members of the Board shall be individuals from industry and business.

(2) The term of office of a voting member of the Board shall be 3 years, except that of the original appointees, five shall be appointed for a term of 1 year, five shall be appointed for a term of 2 years, and five shall be appointed for a term of 3 years.

(3) Any individual appointed to fill a vacancy occurring before the expiration of the term for which his or her predecessor was appointed shall be appointed only for the remainder of such term. No individual may be appointed as a voting member after serving more than two full terms as such a member.

(4) The Board shall select a voting member to serve as the Chairperson and another voting member to serve as the Vice Chairperson. The Vice Chairperson shall perform the functions of the Chairperson in the absence or incapacity of the Chairperson.

(5) Voting members of the Board may receive compensation at a daily rate for GS–18 of the General Schedule under section 5332 of Title

5, when actually engaged in the performance of duties for such Board, and may be reimbursed for actual and reasonable expenses incurred in the performance of such duties.

(Pub.L. 96–480, § 10, Oct. 21, 1980, 94 Stat. 2317.)

Historical Note

Legislative History. For legislative history and purpose of Pub.L. 96–480, see 1980 U.S. Code Cong. and Adm.News, p. 3709.

Library References

United States ⇐29. C.J.S. United States §§ 34, 62.

§ 3710. Utilization of Federal technology

(a) **Policy.**—It is the continuing responsibility of the Federal Government to ensure the full use of the results of the Nation's Federal investment in research and development. To this end the Federal Government shall strive where appropriate to transfer federally owned or originated technology to State and local governments and to the private sector.

(b) **Establishment of Research and Technology Applications Offices.**—Each Federal laboratory shall establish an Office of Research and Technology Applications. Laboratories having existing organizational structures which perform the functions of this section may elect to combine the Office of Research and Technology Applications within the existing organization. The staffing and funding levels for these offices shall be determined between each Federal laboratory and the Federal agency operating or directing the laboratory, except that (1) each laboratory having a total annual budget exceeding $20,000,000 shall provide at least one professional individual full-time as staff for its Office of Research and Technology Applications, and (2) after September 30, 1981, each Federal agency which operates or directs one or more Federal laboratories shall make available not less than 0.5 percent of the agency's research and development budget to support the technology transfer function at the agency and at its laboratories, including support of the Offices of Research and Technology Applications. The agency head may waive the requirements set forth in (1) and/or (2) of this subsection. If the agency head waives either requirement (1) or (2), the agency head shall submit to Congress at the time the President submits the budget to Congress an explanation of the reasons for the waiver and alternate plans for conducting the technology transfer function at the agency.

(c) **Functions of Research and Technology Applications Offices.**—It shall be the function of each Office of Research and Technology Applications—

(1) to prepare an application assessment of each research and development project in which that laboratory is engaged which has potential for successful application in State or local government or in private industry;

(2) to provide and disseminate information on federally owned or originated products, processes, and services having potential application to State and local governments and to private industry;

(3) to cooperate with and assist the Center for the Utilization of Federal Technology and other organizations which link the research and development resources of that laboratory and the Federal Government as a whole to potential users in State and local government and private industry; and

(4) to provide technical assistance in response to requests from State and local government officials.

Agencies which have established organizational structures outside their Federal laboratories which have as their principal purpose the transfer of federally owned or originated technology to State and local government and to the private sector may elect to perform the functions of this subsection in such organizational structures. No Office of Research and Technology Applications or other organizational structures performing the functions of this subsection shall substantially compete with similar services available in the private sector.

(d) **Center for the Utilization of Federal Technology.**—There is hereby established in the Department of Commerce a Center for the Utilization of Federal Technology. The Center for the Utilization of Federal Technology shall—

(1) serve as a central clearinghouse for the collection, dissemination and transfer of information on federally owned or originated technologies having potential application to State and local governments and to private industry;

(2) coordinate the activities of the Offices of Research and Technology Applications of the Federal laboratories;

(3) utilize the expertise and services of the National Science Foundation and the existing Federal Laboratory Consortium for Technology Transfer; particularly in dealing with State and local governments;

(4) receive requests for technical assistance from State and local governments and refer these requests to the appropriate Federal laboratories;

(5) provide funding, at the discretion of the Secretary, for Federal laboratories to provide the assistance specified in subsection (c)(4) of this section; and

(6) use appropriate technology transfer mechanisms such as personnel exchanges and computer-based systems.

(e) **Agency reporting.**—Each Federal agency which operates or directs one or more Federal laboratories shall prepare biennially a report summarizing the activities performed by that agency and its Federal laboratories pursuant to the provisions of this section. The report shall be transmitted to the Center for the Utilization of Federal Technology by November 1 of each year in which it is due.

(Pub.L. 96–480, § 11, Oct. 21, 1980, 94 Stat. 2318.)

Historical Note

Legislative History. For legislative history and purpose of Pub.L. 96–480, see 1980 U.S. Code Cong. and Adm.News, p. 4892.

§ 3711. National Technology Medal

(a) **Establishment.**—There is hereby established a National Technology Medal, which shall be of such design and materials and bear such inscriptions as the President, on the basis of recommendations submitted by the Office of Science and Technology Policy, may prescribe.

(b) **Award.**—The President shall periodically award the medal, on the basis of recommendations received from the Secretary or on the basis of such other information and evidence as he deems appropriate, to individuals or companies, which in his judgment are deserving of special recognition by reason of their outstanding contributions to the promotion of technology or technological manpower for the improvement of the economic, environmental, or social well-being of the United States.

(c) **Presentation.**—The presentation of the award shall be made by the President with such ceremonies as he may deem proper.

(Pub.L. 96–480, § 12, Oct. 21, 1980, 94 Stat. 2319.)

Historical Note

Legislative History. For legislative history and purpose of Pub.L. 96–480, see 1980 U.S. Code Cong. and Adm.News, p. 4892.

§ 3712. Personnel exchanges

The Secretary and the National Science Foundation, jointly, shall establish a program to foster the exchange of scientific and technical personnel among academia, industry, and Federal laboratories. Such program shall include both (1) federally supported exchanges and (2) efforts to stimulate exchanges without Federal funding.

(Pub.L. 96–480, § 13, Oct. 21, 1980, 94 Stat. 2320.)

Historical Note

Legislative History. For legislative history and purpose of Pub.L. 96–480, see 1980 U.S. Code Cong. and Adm.News, p. 4892.

§ 3713. Authorization of appropriations

(a) There is authorized to be appropriated to the Secretary for purposes of carrying out section 3705 of this title, not to exceed $19,000,000 for the fiscal year ending September 30, 1981, $40,000,000 for the fiscal year ending September 30, 1982, $50,000,000 for the fiscal year ending September 30, 1983, and $60,000,000 for each of the fiscal years ending September 30, 1984, and 1985.

(b) In addition to authorizations of appropriations under subsection (a) of this section, there is authorized to be appropriated to the Secretary for purposes of carrying out the provisions of this chapter, not to exceed $5,000,000 for the fiscal year ending September 30, 1981, $9,000,000 for the fiscal year ending September 30, 1982, and $14,000,000 for each of the fiscal years ending September 30, 1983, 1984, and 1985.

(c) Such sums as may be appropriated under subsections (a) and (b) of this section shall remain available until expended.

(d) To enable the National Science Foundation to carry out its powers and duties under this chapter only such sums may be appropriated as the Congress may authorize by law.

(Pub.L. 96–480, § 14, Oct. 21, 1980, 94 Stat. 2320.)

Historical Note

Legislative History. For legislative history and purpose of Pub.L. 96–480, see 1980 U.S. Code Cong. and Adm.News, p. 4892.

§ 3714. Spending authority

No payments shall be made or contracts shall be entered into pursuant to this chapter except to such extent or in such amounts as are provided in advance in appropriation Acts.

(Pub.L. 96–480, § 15, Oct. 21, 1980, 94 Stat. 2320.)

Historical Note

Legislative History. For legislative history and purpose of Pub.L. 96–480, see 1980 U.S. Code Cong. and Adm.News, p. 4892.

CHAPTER 64—METHANE TRANSPORTATION RESEARCH, DEVELOPMENT, AND DEMONSTRATION

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§ 3801. Congressional statement of findings and declaration of policy

(a) The Congress finds and declares that—

(1) gasoline and diesel fuel for vehicular use are in short supply and constitute a sizable portion of domestic petroleum consumption;

(2) methane use in fleet-operated vehicles would result in substantial reduction in oil imports;

(3) methane is in more abundant domestic supply than petroleum products, is the primary component of natural gas and can be derived in increased quantities from coal, biomass, waste products, and other renewable resources;

(4) recoverable methane presently available in the United States is not fully utilized;

(5) test results to date indicate that methane use as a substitute for gasoline as a motor fuel can result in emission reductions;

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[DISCUSSION DRAFT]

OCTOBER 4, 1994

PROPOSED CHANGES TO H.R. 3590

SECTION 1. SHORT TITLE.

This Act may be cited as the "Technology Transfer Improvements Act of 1994".

SEC. 2. FINDINGS.

The Congress finds and declares the following:

(1) The commercialization of technology and industrial innovation are central to the economic, environmental, and social well-being of citizens of the United States.

(2) The Government can help United States business to speed the development of new products and processes by entering into cooperative research and development agreements which make available the assistance of the Federal laboratories to the private sector, but the commercialization of technology and industrial innovation in the United States depends largely upon actions by business.

(3) Government action to claim a right of ownership to any invention or other intellectual property developed under a cooperative research and development agreement can inhibit the establishment of such agreements with business and can prevent the

commercialization of technology and industrial innovation by business.

(4) The commercialization of technology and industrial innovation in the United States will be enhanced if the ownership of any invention or other intellectual property developed under a cooperative research and development agreement belongs to a company or companies incorporated in the United States.

SEC. 3. TITLE TO INTELLECTUAL PROPERTY ARISING FROM COOPERATIVE RESEARCH AND DEVELOPMENT AGREEMENTS.

Subsection (b) of section 12 of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3710a(b)) is amended to read as follows:

"(b) ENUMERATED AUTHORITY.—(1) Under an agreement entered into pursuant to subsection (a)(1), the laboratory may grant, or agree to grant in advance, to a collaborating party patent licenses or assignments, or options thereto, in any invention made in whole or in part by a Federal employee under the agreement, except that the laboratory shall ensure that a collaborating party has, at a minimum, the option to choose either an exclusive license or a non-exclusive license for a field of use in any such invention under the agreement. In consideration for

commercialization of technology and industrial innovation by business.

(4) The commercialization of technology and industrial innovation in the United States will be enhanced if the ownership of any invention or other intellectual property developed under a cooperative research and development agreement belongs to a company or companies incorporated in the United States.

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the Government's contribution under the agreement, the rights of the collaborating party shall be subject to the following explicit conditions:

"(A) A nonexclusive, nontransferable, irrevocable, paid-up license from the collaborating party to the laboratory to practice the invention or have the invention practiced throughout the world by or on behalf of the Government, except that in the exercise of such license, the Government shall not publicly disclose trade secrets or commercial or financial information that is privileged or confidential within the meaning of section 552(b) of title 5, United States Code, or which would be considered as such if it had been obtained from a non-Federal party, which is obtained in the conduct of research or as a result of activities under this Act from a non-Federal party participating in a cooperative research and development agreement or as a result of research and development activities conducted under this Act.

"(B) In the event that a laboratory assigns title or grants an exclusive license to such an invention, the right of the Government to require a collaborating party to grant to a responsible applicant or applicants a nonexclusive, partially exclusive, or exclu-

sive license to use the invention in their licensed field of use, on terms that are reasonable under the circumstances, or if the collaborating party fails to grant such a license, to grant the license itself if the Government finds that—

"(i) the action is necessary to meet health or safety needs that are not reasonably satisfied by the collaborating party;

"(ii) the action is necessary to meet requirements for public use specified by Federal regulations and such requirements are not reasonably satisfied by the collaborating party; or

"(iii) the collaborating party has failed to comply with the agreement implementing subsection (c)(4)(B).

"(2) Under an agreement entered into pursuant to subsection (a)(1), a laboratory also may—

"(A) accept, retain, and use funds, personnel, services, and property from a collaborating party and provide personnel, services, and property to a collaborating party;

"(B) use funds received from a collaborating party under subparagraph (A) to hire personnel that will not be subject to full-time-equivalent restrictions of the agency;

"(C) to the extent consistent with any applicable agency requirement or standard of conduct, permit an employee or former employee of the laboratory to participate in an effort to commercialize an invention made by the employee or former employee while in the employment or service of the Federal Government; and

"(D) grant to a collaborating party in an exclusive license in any invention made under the agreement the right of enforcement under chapter 29 of title 35, United States Code, as determined appropriate and in the public interest.

"(3) Under an agreement entered into pursuant to subsection (a)(1), the collaborator shall have the option to retain title to any invention made solely by the collaborator's employee, except that the collaborator may agree to waive such option. The collaborator shall formally consider granting the Government a nonexclusive, nontransferable, irrevocable, paid-up license to practice the collaborator's sole inventions or have the inventions practiced throughout the world for research purposes.

? No! disincentive uncertainty

"(4) A Government-owned, contractor-operated laboratory that enters into a cooperative research and development agreement under subsection (a)(1) may use or ob-

ligate royalties or other income accruing to the laboratory under an agreement with respect to any invention only—

"(A) for payments to inventors;

"(B) for a purpose described in clauses (i), (ii), and (iv) of section 14(a)(1)(B); and

"(C) for scientific research and development consistent with the research and development mission and objective of the laboratory.".

SEC. 4. DISTRIBUTION OF INCOME FROM INTELLECTUAL PROPERTY RECEIVED BY FEDERAL LABORATORIES.

Section 14 of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3710c) is amended to read as follows:

"SEC. 14. DISTRIBUTION OF ROYALTIES FROM INVENTIONS RECEIVED BY FEDERAL AGENCIES.

"(a) IN GENERAL.—(1) Except as provided in paragraphs (2) and (4), any royalties or other payments received by a Federal agency from the licensing and assignment of inventions under agreements entered into by Federal laboratories under section 12, and from the licensing of inventions of Government-operated laboratories under section 207 of title 35, United States Code, or under any other provision of law, shall be retained by the agency

whose laboratory produced the invention and shall be disposed of as follows:

"(A)(i) The head of the agency or laboratory or such individual's designee shall pay the first $2,000, and thereafter at least 15 percent, of the royalties or other payments to the inventor or coinventors if the inventor or each coinventor has assigned such inventor's or coinventor's rights in the invention to the United States.

"(ii) An agency or laboratory may provide appropriate incentives from royalties to laboratory employees who contribute substantially to the technical development of licensed or assigned intellectual property between the time that the intellectual property rights are legally asserted and the time of the licensing or assigning of the intellectual property rights.

"(iii) The agency or laboratory shall retain the income received from intellectual property until the agency or laboratory makes payments to laboratory employees under clause (i) or (ii).

"(B) The balance of the royalties or other payments shall be transferred by the agency to its Government-operated laboratories, with the majority share of the royalties or other payments from any invention going to the laboratory where the invention

occurred, and the royalties or other payments so transferred to any such laboratory may be used or obligated by that laboratory during the fiscal year in which they are received or during the succeeding fiscal year—

"(i) for payment of expenses incidental to the administration and licensing of intellectual property by the agency or laboratory with respect to intellectual property which originated at that laboratory, including the fees or other costs for the services of other agencies, persons, or organizations for intellectual property management and licensing services;

"(ii) to reward scientific, engineering, and technical employees of the laboratory, including developers of sensitive or classified technology, regardless of whether the technology has commercial applications;

"(iii) to further scientific exchange among the laboratories of the agency;

"(iv) for education and training of employees consistent with the research and development mission and objectives of the agency or laboratory, and for other activities that increase

the potential for transfer of the technology of the laboratories of the agency; or

"(v) for scientific research and development consistent with the research and development mission and objective of the laboratory.

All income retained by the agency or laboratory after payments have been made pursuant to subparagraphs (A) and (B) that is unobligated and unexpended at the end of the fiscal year succeeding the fiscal year in which the income was received shall be paid into the United States Treasury.

"(2) If, after payments to employees under paragraph (1), the royalties or other payments received by an agency and its laboratories in any fiscal year exceeds 5 percent of the budget of the laboratories of the agency for that year, 75 percent of such excess shall be paid to the United States Treasury and the remaining 25 percent may be used or obligated for the purposes described in clauses (i) through (iv) of paragraph (1)(B) during that fiscal year or the succeeding fiscal year. Any income not so used or obligated shall be paid into the United States Treasury.

"(3) Any payment made to an employee under this section shall be in addition to the regular pay of the employee and to any other awards made to the employee, and

shall not affect the entitlement of the employee to any regular pay, annuity, or award to which the employee is otherwise entitled or for which the employee is otherwise eligible, or limit the amount thereof. Any payment made under this section to any employee shall continue after the employee leaves the employment of the laboratory or agency.

"(4) A Federal agency receiving royalties or other payments as a result of intellectual property management services performed for another Federal agency or laboratory under section 207 of title 35, United States Code, may retain such royalties or other payments to the extent required to offset the payment to inventors of the royalties or other payments under paragraph (1)(A)(i), and costs and expenses incurred under paragraph (1)(B)(i), including the cost of foreign protection of the invention of the other agency. All royalties and other payments remaining after offsetting the payment of the royalties or other payments to the inventors, costs, and expenses described in the preceding sentence shall be transferred to the agency for which the services were performed, for distribution in accordance with clauses (i) through (iv) of paragraph (1)(B).

"(b) CERTAIN ASSIGNMENTS.—If the invention involved was assigned to the Federal agency—

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"(1) by a contractor, grantee, participant, or employee thereof, in an agreement or other arrangement with the agency; or

"(2) by an employee of the agency who was not required by any regulation to assign the invention to the agency at the time the invention was made,

the agency unit that was involved in such assignment shall be considered to be a laboratory for purposes of this section.

"(c) REPORTS.—(1) In making its annual submission to the Congress, each Federal agency shall submit, to the appropriate authorization and appropriations committee of both Houses of the Congress, a summary of the amount of income received from intellectual property and expenditures made (including employee awards) under this section.

"(2) Not later than October 1, 1996, the Comptroller General shall review the effectiveness of the various income-sharing programs established under this section and report to the appropriate committees of the House of Representatives and the Senate, in a timely manner, the Comptroller General's findings, conclusions, and recommendations for improvements in such programs.".

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SEC. 5. EMPLOYEE ACTIVITIES.

The text of section 15 of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3710d) is amended to read as follows:

"(a) IN GENERAL.—If a Federal agency which has the ownership or the right of ownership under this Act to an invention that is made by a Federal employee does not intend to file for a patent application or otherwise to promote commercialization of such invention, the agency shall allow the inventor, if the inventor is a Government employee or former employee who made the invention during the course of employment with the Government, to obtain or retain title to the invention (subject to reservation by the Government of a nonexclusive, nontransferable, irrevocable, paid-up license to practice the invention or have the invention practiced throughout the world by or on behalf of the Government). In addition, the agency may condition the inventor's right to title on the timely filing of a patent application in cases when the Government determines that it has or may have a need to practice the invention.

"(b) DEFINITION.—For purposes of this section, Federal employees include 'special Government employees' as defined in section 202 of title 18, United States Code.

"(c) RELATIONSHIP TO OTHER LAWS.—Nothing in this section is intended to limit or diminish existing authorities of any agency.".

SEC. 6. AMENDMENT TO BAYH-DOLE ACT.

Section 210(e) of title 35, United States Code, is amended by inserting "and the Technology Transfer Improvements Act of 1994" after "Federal Technology Transfer Act of 1986".

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S.1164

Technology Transfer Improvements Act of 1995 (Reported in the Senate)

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SEC. 3. USE OF FEDERAL TECHNOLOGY.

SEC. 4. TITLE TO INTELLECTUAL PROPERTY ARISING FROM COOPERATIVE RESEARCH AND DEVELOPMENT AGREEMENTS.

SEC. 5. DISTRIBUTION OF INCOME FROM INTELLECTUAL PROPERTY RECEIVED BY FEDERAL LABORATORIES.

SEC. 6. EMPLOYEE ACTIVITIES.

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TECHNOLOGY TRANSFER IMPROVEMENTS ACT OF 1995 (Senate - February 07, 1996)

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Mr. DOLE. Mr. President, I ask unanimous consent that the Committee on Commerce be discharged from further consideration of H.R. 2196; further, that the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report.

The assistant legislative clerk read as follows:

A bill (H.R. 2196) to amend the Stevenson-Wydler Technology Innovation Act of 1980 with respect to inventions made under cooperative research and development agreements, and for other purposes.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

AMENDMENT NO. 3463

(PURPOSE: TO MAKE PERFECTING AMENDMENTS)

Mr. DOLE. Mr. President, I send an amendment to the desk on behalf of Senators **Rockefeller** and **Burns.**

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Kansas [Mr. **Dole**], for Mr. **Rockefeller**, for himself and Mr. **Burns**, proposes an amendment numbered 3463.

Mr. DOLE. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 3, line 24, insert `pre-negotiated' before `field'.

On page 5, beginning on line 4, strike `if the Government finds' and insert `in exceptional circumstances and only if the Government determines'.

On page 5, between lines 15 and 16, insert the following:

This determination is subject to administrative appeal and judicial review under section 203(2) of title 35, United States Code.

On page 13, strike lines 10 through 17 and insert the following:

Section 11(i) of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S .C. 3710(i)) is amended by inserting `loan, lease, or' before `give'.

Beginning with line 23 on page 21, strike though line 3 on page 22 and insert the following:

`(13) to coordinate Federal, State, and local technical standards activities and conformity assessment activities, with private sector technical standards activities and conformity assessment activities, with the goal of eliminating unnecessary duplication and complexity in the development and promulgation of conformity assessment requirements and measures.'.

On page 22, beginning on line 5, strike `by January 1, 1996,' and insert `within 90 days after the date of enactment of this Act,'.

Beginning with line 8 on page 22, strike through line 5 on page 23 and insert the following:

(d) **Utilization of Consensus Technical Standards by Federal Agencies; Reports:**

(1) **In general:** Except as provided in paragraph (3) of this subsection, all Federal agencies and departments shall use technical standards that are developed or adopted by voluntary consensus standards bodies, using such technical standards as a means to carry out policy objectives or activities determined by the agencies and departments.

(2) **Consultation; participation:** In carrying out paragraph (1) of this subsection, Federal agencies and departments shall consult with voluntary, private sector, consensus standards bodies and shall, when such participation is in the public interest and is compatible with agency and departmental missions, authorities, priorities, and budget resources, participate with such bodies in the development of technical standards.

(3) **Exception:** If compliance with paragraph (1) of this subsection is inconsistent with applicable law or otherwise impractical, a Federal agency or department may elect to use technical standards that are not developed or adopted by voluntary consensus standards bodies if the head of each such agency or department transmits to the Office of Management and Budget an explanation of the reasons for using such standards. Each year, beginning with fiscal year 1997, the Office of Management and Budget shall transmit to Congress and its committees a report summarizing all explanations received in the preceding year under this paragraph.

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TECHNOLOGY TRANSFER IMPROVEMENTS ACT OF 1995 (Senate - February 07, 1996)

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BACKGROUND ON THE TECHNOLOGY TRANSFER PROVISIONS

Mr. President, the heart of the legislation, in both the Senate and House versions, is section 4, which will improve the transfer of technology from Federal laboratories by giving both laboratories and industrial partners clearer guidelines on the distribution of intellectual property rights from inventions resulting from cooperative research projects.

Specifically, the bill amends the Stevenson-Wydler Technology Innovation Act, which since 1986 has allowed Federal laboratories to enter into cooperative research and development agreements [CRADA's] with industry and other collaborating parties. The laboratories can contribute people, facilities, equipment, and ideas, but not funding, and the companies contribute people and funding.

As I pointed out when I introduced **S . 1164** on August 10, even under the current law the CRADA provision has been a success. Hundreds of these agreements have been signed and carried out in recent years, making expertise and technology that the Federal Government has already paid for through its mission-related work available to the wider economy. But we also have seen a problem. Currently, the law provides little guidance on what intellectual property rights a collaborating partner should receive from a CRADA. The current law gives agencies very broad discretion on this matter, which provides flexibility but also means that both companies and laboratory executives must laboriously negotiate patent rights each time they discuss a new CRADA. Neither side has much guidance as to what constitutes an

appropriate agreement regarding intellectual property developed under the CRADA. Options range from assigning full patent title to the company all the way to providing the firm with only a nonexclusive license for a narrow field of use.

In conversations with company executives, we learned that this uncertainty--and the time and effort involved in negotiating intellectual property from scratch in each CRADA--was often a barrier to working with some laboratories. Companies are reluctant to enter into a CRADA, or, equally important, to commit additional resources to commercialize a CRADA invention, unless they have some assurance they will control important patent rights.

In 1993, I began working with Congresswoman **Morella** on possible ways to reduce the uncertainty and negotiating burden facing companies, while still ensuring that the Government interest remains protected. To begin legislative discussion on this matter, I introduced **S** . 1537 on October 7, 1993, for myself and Senator DeConcini, then chairman of the Senate Patent Subcommittee. That bill would have directed Federal laboratories to assign to the collaborating party--the company--title to any intellectual property arising from a CRADA, in exchange for reasonable compensation to the laboratory and certain patent safeguards.

S . 1537 also contained a second provision--an additional incentive for Federal scientists to report and develop inventions that might have commercial as well as government value. The General Accounting Office [GAO] had recommended that Federal inventors receive more of the royalties received by laboratories as government compensation under CRADA's . My bill incorporated that recommendation.

Soon after Senator DeConcini and I introduced our bill, Congresswoman **Morella** introduced the companion House bill, H.R. 3590. In subsequent House and Senate hearings, the bill received strong support from industry, professional societies, trade associations, and the administration. At that point, we also began working closely with Commerce Department Under Secretary for Technology Mary Good and her staff, who helped us obtain detailed technical suggestions from executive branch agencies and other patent experts. We made major progress during the 103d Congress, but in 1994 ran out of time to complete action on the legislation.

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FASTENER QUALITY ACT AMENDMENTS

Mr. President, the second major provision of the bill now before us is a set of amendments to the Fastener Quality Act of 1990. That act regulates the manufacture and distribution of certain high-strength bolts and other fasteners used in safety-related applications, such as building, aircraft, and motor vehicles.

The Fastener Advisory Committee created under the 1990 law has recommended a series of changes which will continue to ensure the safety of these high-strength fasteners while reducing the regulatory burden on business. The Senate first passed these amendments in March 1994 as part of a larger technology bill. That 1994 bill did not become law, however, so this year in the Commerce Committee, Senator **Burns**, who is the Senate leader on this matter, offered these changes as an amendment to **S . 1164** . The same amendments were included in H.R. 2196. These changes have been worked out with a very broad set of interested parties, including major users of fasteners, and I know of no controversy in the Senate regarding them.

OTHER PROVISIONS IN H.R. 2196

Finally, the House version of the legislation also contains a set of nonspending amendments regarding NIST operations and voluntary industry standards. While these amendments are not currently in **S . 1164** , they did not lead to any controversy on the House floor.

One such provision, section 9, is intended to make it easier for Federal laboratories to loan, lease, or donate excess research equipment to educational institutions and nonprofit organizations. As I will explain shortly, I will shortly propose a perfecting amendment and colloquy pertaining to section 9.

Another provision, section 12(d), would codify an existing Office of Management and Budget circular, OMB Circular A-119. Following the OMB circular, the amendment directs Federal agencies to use, to the extent not inconsistent with applicable law or otherwise impractical, technical standards that are developed or adopted by voluntary consensus standards organizations. We believe this step will reduce costs for both government and the private sector. For example, if off-the-shelf products meeting a voluntary consensus standards can, in the judgment of an Agency, meet its procurement requirements, then the Agency saves money over buying products built to special government specifications and commercial industry benefits from increased sales to the Government.

I will shortly discuss the several perfecting amendments that we are now offering to this bill, but here I want to mention that one of these amendments clarifies the intent and scope of section 12(d). We have worked closely with Senators **Baucus** and **Johnston**, and their staffs, on this rewrite. And here, based on our discussions with these offices, I want to emphasize five key points about the intent and effect of this provision, as amended, in order to deal with concerns that have been raised.

First, we are talking here about technical standards pertaining to products and processes, such as the size, strength, or technical performance of a product, process, or material. The amended version of section 12(d) explicitly defines the term `technical standards' as meaning performance-based or design-specific technical specifications and related management systems practices. An example of a management system practice standard is the ISO 9000 series of standards specifying procedures for maintaining quality assurance in manufacturing.

In this subsection, we are emphatically not talking about requiring or encouraging any agency to follow private sector attempts to set regulatory standards or requirements. For example, we do not intend for the Government to have to

follow any attempts by private standards bodies to set specific

environmental regulations. Regular consensus standards bodies do not do that, in any case. But no one should presume that a new private group could use section 12(d) to dictate regulations to Federal agencies. The amended version of this subsection makes clear that agencies and departments use 'such technical standards as a means to carry out policy objectives or activities determined by the agencies and departments.'

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ADDITIONAL PERFECTING AMENDMENTS

Mr. President, conversations with interested Senators have led me, after consultation with Chairman **Burns,** to offer six other small perfecting amendments that clarify key provisions of the bill. I want to mention them briefly, as well as thank the relevant Senators for working with us on these issues.

First, as discussed earlier, we propose to clarify that the field of use for which a collaborating party may get an exclusive license is a pre-negotiated field of use. That is, the company alone does not pick the field of use. Like other provisions of CRADA, the field or fields of use for which a license applies is the result of negotiations between the company

and the laboratory. This has been the intent all along of both the Senate and House sponsors of this legislation, as reflected in both House and Senate report language. However, Senator **Domenici** has asked that we make this point explicit in the bill language itself, and I am happy to do so.

Second, as also discussed earlier, we want to make clear that an Agency will exercise its rights under the bill to require the holder of an exclusive technology to share that technology only in exceptional circumstances. Senators **Bingaman** and **Domenici** have requested this clarification, and I am pleased to do so because this has been our intent all along. We know that there may be some exceptional, and very rare, circumstances under which the holder of an exclusive license is not willing or able to use an important technology or use it as provided in the original CRADA agreement. We feel strongly that the Government must maintain some rights to deal with such a situation, but agree with our distinguished colleagues that these rights should be exercised only under the most exceptional circumstances. We do not want prospective CRADA participants to feel that the Government will exercise these rights on a routine or arbitrary basis.

Third, Senator **Johnston** has asked that a provision from other Federal patent law--the Bayh-Dole Act--be added to our bill's section regarding the exceptional circumstances under which the Government may exercise its right to require a collaborating party, holding an exclusive license to an invention made in whole or in part by a laboratory employee, to grant a license to a responsible applicant. That provision from the Bayh-Dole is section 203(2) of title 35, United States Code, and as added here it would provide a collaborating party under these exceptional circumstances a right to an administrative appeal, as described under 37 CFR part 401, and to judicial review. In short, if the Government determines that it has grounds to force a collaborating party to grant a license to additional party, according to the criteria set forth in the bill, then that collaborating party will have a right of due process and appeal.

Fourth, Senator **Glenn,** in his capacity as ranking member of the Committee on Governmental Affairs, has raised a point concerning section 9's provisions on the disposal of excess laboratory research equipment. We delete one part of section 9 and plan to enter into a colloquy with the distinguished Senator from Ohio regarding the procedures under which Federal laboratories may loan or lease research equipment.

Fifth, the date on which a report required under section 12(c) is due is changed from January 1, 1996, to within 90 days of the date of enactment of this act.

A final amendment clarifies section 12(b), a provision which

deals with the role of the National Institute of Standards and Technology [NIST] in coordinating government

standards activities. The amendment corrects a small drafting error. The original text, in part, implies that NIST is to coordinate private sector standards and conformity assessment activities. Of course, we in no way intend that NIST or any other part of the Federal Government is to coordinate, direct, or supervise private sector activities. The amendment makes clear that NIST is to coordinate with private sector activities.

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CONCLUSION

Mr. President, this bill is a concrete step toward making our Government's huge investment in science and technology more useful to commercial companies and our economy. Companies in West Virginia and other States will not find it easier to partner with Federal laboratories across the country. The winner will be the American economy, which will get more economic benefit out of the billions of dollars we invest each year in our Government laboratories. The result will be new technologies, new products, and new jobs for Americans.

In closing, I want to thank and compliment my good friends, Representative **Morella** and Senator **Burns,** for their great leadership on this legislation. I also want to thank their staffs, the staffs for Congressmen **Brown** and **Tanner,** and Chairman **Pressler's** staff for their hard work. Special thanks also goes to Under Secretary of Commerce Mary Lowe Good and her staff, particularly Chief Counsel Mark Bohannon, for their work in reviewing the legislation and working with other Federal agencies. Numerous technical experts helped us with the legislation, and I thank them. I also want to thank Dr. Thomas Forbord, who as a congressional fellow on my staff several years ago drafted the first version of this valuable legislation.

Mr. President, this is a good bill that will benefit companies in West Virginia, Montana, Maryland, and all other States. It will help speed the creation of new technologies, will help make American companies more competitive, and will help create and retain good American jobs.

I urge our colleagues to accept the House-passed version, H.R. 2196, with these minor perfecting amendments, and return the bill to the House so that they may concur in these minor changes and send the legislation on the President for his signature.

Mr. BURNS. Mr. President, I rise in support of H.R. 2196, as amended, which is a bill to amend the Stevenson-Wylder Technology Innovation Act of 1980. The Senate version of this bill, **S . 1164** , was reported out of the Commerce Committee in November of last year. Our system of more than 700 Federal laboratories is one of our most precious national assets. These labs conduct important research and development programs to keep the United States on the cutting edge of science and technology.

As chairman of the Science Subcommittee, I cosponsored **S . 1164** to help accelerate the transfer of technology from our 700 Federal labs to the private industry, where it can be converted into commercial goods and services for the American people. Our cooperative research and development agreements [CRADA's] have proven a very effective way of accomplishing technology transfer without increasing Federal spending. These CRADA's enable Government and industry to conduct research together which hopefully will generate inventions and technological breakthroughs that can be later commercialized. It is the national interest to encourage more of this kind of joint research.

With that in mind, this bill seeks to encourage more joint research by clarifying the intellectual property rights that the industry partner may receive in inventions generated by the joint research. In this way, the company knows going into the arrangement that it will have the right to commercialize the results of its joint research. The bill also makes clear that, in exchange for the rights given to the company, the Government is entitled to reasonable compensation, which would typically involve a share of the royalties from any successful commercialization efforts. So, both the Federal labs and their private sector partners in these agreements stand to benefit from this legislation.

Equally important, the bill provides greater incentives for the Federal lab scientists to commercialize their inventions by increasing their share of any royalties received from the sale of products arising from the joint research.