CONGRESSIONAL ...

BILLS AND ...UTIONS

...and joint resolu... ...read the first time

Rights Commemoration Commission, and for other purposes; to the Commission on the Judiciary.

By Mr. SCHMITT:

S. 3629. A bill to amend title 5, United ... and systematize the ... authorized farmers to join together ... cooperatives so they could try through cooperative efforts to maintain an equitable balance between farmers and the growing market influence of processing

assistance in many instances where under other programs it might have come more slowly or not at all.

And nowhere has that been truer than in West Virginia.

All across our State today there are health and education facilities, new public utilities and buildings, new industries and cultural centers made possible under the program. Highways now cut through the rugged mountains where once there were only trails.

The same things are true in other parts of Appalachia. I speak in detail about West Virginia because I have seen the benefits personally. I can testify to their importance and lasting value. The Appalachian program has been, and is, an ambitious one. Through the end of 1977 it had provided more than $3 billion to help finance selected activities in the 13-State area—more than $545 million of that amount in West Virginia. Half of an approved corridor highway network is already open for traffic with another 200 miles under construction.

Among the program contributions are coordination of the region's energy resources, development of plans to aid agriculture and small farm operators, and further improvement of transportation facilities to assist in industrial expansion.

The results are becoming evident where it counts. Per capita income in Appalachia is now up to 83 percent of the national average. Unemployment is below that for the country as a whole but the work force is growing. Industry and farm production are on the upgrade and more people are moving into the region than are leaving.

The influence of the Appalachian programs has not been confined to that region. It has charted the course for a growing family of other regional Commissions—now up to eight—which were authorized under title V of the Public Works and Economic Development Act, which I also introduced in 1965.

In the larger sphere is the part the Appalachian Commission performed in the planning and staging of the White House Conference on Balanced Growth and Economic Development held in Washington early this year as a result of legislation I authored.

That role was further enhanced by the appointment of West Virginia's Gov. Jay Rockefeller as chairman of the Conference Advisory Committee and by the series of Appalachian resolutions developed in a preconference session held last fall in Charleston, W. Va.

I cite these developments because I think they demonstrate the viability and effectiveness of a well-conceived regional strategy, implemented with able leadership and initiative.

And they are pertinent to the primary purpose of this statement—to assure the continued life of the Appalachian Regional Commission program as the centerpiece of an expanded regional concept for economic development.

I offer for that purpose a bill extending the Appalachian program for 4 years and time providing new funding and authority for the title V regional commissions elsewhere in the country.

It is legislation to which I will give priority attention next year if I am continued in my role as chairman of the Committee on Environment and Public Works, the committee which must approve such a bill. I introduce it now to indicate my strong support for extension of the Appalachian Regional Commission's work, in the context of a national system of regional commissions and a promising regional growth policy process.

I am gratified that the White House has informed me that, in response to my request, the administration supports the extension of the Appalachian Regional Development Act. While no final administration position has been reached on the other aspects of the bill, I understand it embodies the conceptual framework of what may well become a presidentially endorsed proposal. I am pleased, however, that administration has allowed me to announce its support of the Appalachian program at this time.

The important issues of this bill need time for full and careful consideration and the presentation of views on possible refinements or modifications of its provisions. The portion of my bill dealing with expanding the regional concept and establishing a regional growth policy process is stated in general terms to allow for that possibility. I am submitting it now to insure ample time for reflection before we act on the extension. Among other matters, questions concerning the proper balance of Commerce Department and White House involvement in providing support for the regional growth policy process must be addressed.

I emphasize that I do not propose this legislation simply as a new lease on life for the programs concerned.

For the program to be truly effective, we should work toward parity among the Regional Commissions. Only in that way can the regional approach have maximum influence and assure full attention and service to the areas for which the individual Commissions speak.

A new era dawned in 1965. I hope and believe that its horizons can be broadened and brightened even further when we act next year on the legislation I now propose.●

By Mr. SCHMITT:

S. 3627. An act entitled the "Science and Technology Research and Development Utilization Policy Act"; to the Committee on Governmental Affairs.

SCIENCE AND TECHNOLOGY RESEARCH AND DEVELOPMENT UTILIZATION POLICY ACT

● Mr. SCHMITT. Mr. President, I am today introducing the Science and Technology Research and Development Utilization Policy Act that would establish a uniform Federal policy for the management and utilization of the results of federally sponsored research and development. The existing hodgepodge Federal policies governing the allocation of rights to inventions resulting from the performance of Government contracts fail to provide the sufficient incentives for innovation and delay or discourage the beneficial commercial utilization of the benefits of such inventions. The seriousness of this problem has been reflected in the Nation's declining rate of industrial innovation and economic growth, the growing international trade deficit, and the increasing threats to U.S. technological leadership.

The role of the Federal Government in the industrial innovation process cannot be overstated. For more than a decade, Federal agencies have funded an average of approximately 70 percent of the Nation's entire expenditures for science and technology research and development. During this past year, the Federal Government provided roughly $26 billion in research and development financing. As a result of this huge national investment, thousands of inventions are identified each year; the Government currently holds title to about 28,000 such inventions, of which only 5 percent have been utilized. It is essential that the United States take full advantage of the potential benefits from its investment in science and technology research and development. Unfortunately, Government policies have operated in the past to inhibit the process by which such benefits are made available to the consumer.

Mr. President, this is not a new problem. For the past 30 years debate has flourished over the appropriate Federal policy for determining ownership of the products of Government-funded research. The future of such policy remains uncertain. National Commissions, interagency committees, and two executive orders have failed to achieve a comprehensive Government policy on this issue. The nature of the problem demands a legislative solution. Individual Federal agencies operate under varying statutory directives. The executive branch has been unable to reach a consensus as to the most desirable policy to follow.

The Senate Science, Technology, and Space Subcommittee, of which I am the ranking member, has had a longstanding interest in the direction of Federal R. & D., industrial innovation, and Federal policies affecting these areas. An integral part of the subcommittee's concern relates to the Federal Government's role in promoting technology utilization and industrial innovation. The subcommittee and the International Finance Subcommittee have held numerous hearings on these issues in the past and will continue to pursue their investigation of problems associated with these concerns.

The bill I am offering today would provide a system for the effective management and utilization of the results of Federal research and development. I believe it is possible to formulate a comprehensive policy that would achieve such objectives as commercial utilization, uniformity, predictability, and administrative ease, while at the same time protecting the interest of the general public and preventing any windfall profits or undue market concentration.

The approach I am suggesting in this bill represents a middle-ground position between the traditional "title in the Government" policy and a "license" policy that would routinely assign title to the contractor. The framework for this approach is set forth in title II of my bill. Essentially, it provides that in specified situations, such as when there is a need

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to protect the public health, safety, or welfare, the Government would retain title to any invention developed under a Federal contract. In all other situations, it would be presumed that the contractor would have title to any inventions made under the contract.

To assure flexibility in the implementation of the policy, the Government would have authority to waive title when it is determined to be in the public interest. In addition, the Government is given "march-in rights' to require licensing of any such invention.

This comprehensive policy would apply to all agencies which enter into Federal R. & D. contracts. A Federal Review Board is created to review, coordinate, and direct the implementation of a uniform policy.

My bill would also address the problem of effectively utilizing those inventions in which title is held by the Government. Clearly, there is a need for better coordination and direction of Federal efforts to facilitate the expeditious transfer of technology to the private sector. Title IV would direct the Secretary of Commerce to establish a Federal technology utilization program under which necessary action would be taken to promote the utilization and protection of rights in Government-owned inventions. This Government-wide program would be patterned after the highly successful National Aeronautics and Space Administration technology utilization programs. In addition, each Federal agency would be required to develop and implement a separate technology utilization program. The purpose of such programs would be to expedite the technology transfer process, including the secondary uses of technology for societal needs.

Mr. President, I am introducing this legislative proposal to initiate and encourage discussion on these issues and to provide the framework for a serious reexamination of our national policy. I plan to circulate this bill for comment during the next several months and introduce a revised version early in the 96th Congress.

Mr. President, I ask unanimous consent that the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 3627

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

TITLE I.—POLICY

SEC. 101. FINDINGS. The Congress, recognizing the profound impact of science, engineering, and technology policy on the economic, social, political, technological well-being and the health and safety of the nation as a whole, hereby finds and declares that—

(1) The United States has recently experienced a decline in the process of industrial innovation and productivity which is integrally related to, and adversely impacts upon, domestic productivity, the rate of economic growth, the level of employment, the balance of trade, and the attainment of other national goals.

(2) The national support of scientific and technological research and development is indispensable to sustained growth and economic stability, and it is in the national interest to maximize the benefits to the general public from such investment.

(3) Scientific and technological developments and discoveries resulting from work performed with Government contracts constitute a valuable national resource which should be developed in a manner consistent with the public interest and the equities of the respective parties.

(4) Current Federal policy with respect to the allocation of rights to the results of Federally sponsored research and development deters contractor participation in government contracts, delays technological progress and stifles the innovative process.

(5) There is a need for the establishment and implementation of a flexible, uniform Government-wide policy for the management and utilization of the results of Federally-funded research and development. This uniform policy should promote the progress of science and the useful arts, encourage the efficient commercial utilization of technological developments and discoveries, guarantee the protection of the public interest, and recognize the equities of the contracting parties.

SEC. 102. PURPOSE.—It is the purpose of this Act to—

(1) Establish and maintain a uniform Federal policy for the management and use of the results of Federally sponsored science and technology research and development; and

(2) Ensure the effective implementation of the provisions of this Act, and to monitor on a continuing basis the impact of Federal science and technology policies on innovation and technology development.

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

(1) "Federal agency" means an "executive agency" as defined by 5 U.S.C. 105, and the military departments as defined by 5 U.S.C. 102;

(2) "Federal employees" means all employees as defined in 5 U.S.C. 2105 and members of the uniformed services;

(3) "Agency head" means the head of any Federal agency, except that (a) the Secretary of Defense shall be head of the Department of Defense and of each of the military departments and (b) in the case of any independent establishment control over which is exercised by more than one individual, such term means the body exercising such control;

(4) "Contract" means any contract, grant, agreement, commitment, understanding, or other arrangement entered into between any Federal agency and any person where a purpose of the contract is the conduct of experimental, developmental, or research work. Such term includes any assignment, substitution of parties, or subcontract of any type entered into or executed for the conduct of experimental, developmental, or research work in connection with the performance of that contract.

(5) "Contractor" means any person and any public or private corporation, partnership, firm, association, institution, or other entity that is a party to the contract.

(6) "Invention" means any invention, discovery, innovation, or improvement which, without regard to the patentability thereof, falls within the classes of patentable subject matter defined in title 35, United States Code.

(7) "Inventor" means any person, other than a contractor, who has made an invention under a contract but who has not agreed to assign his rights in such invention to the contractor.

(8) "Disclosure" means a written statement sufficiently complete as to technical detail to convey to one skilled in the art to which the invention pertains a clear understanding of the nature, purpose, operation, and as the case may be, physical, chemical, or electrical characteristics of the invention.

(9) "Made under the contract" or "made under a contract" when used in relation to any invention mean the conception or first actual reduction to practice of such invention in the course of any work under the contract or under a contract, respectively.

(10) "Person" means any individual, partnership, corporation, association, institution, or other entity.

(11) "Practical application" means to manufacture in the case of a composition or product, to practice in the case of a machine or system, and, in each case, under such conditions as to establish that the invention is being worked and that its benefits are available to the public either on reasonable terms or through reasonable licensing arrangements.

(12) "Board" means the Federal Science and Technology Research and Development Utilization Review Board established under section 501 of Title V of this Act.

(13) "Government" means the Government of the United States of America.

TITLE II.—ALLOCATION OF RIGHTS—GOVERNMENT CONTRACTORS

SEC. 201. RIGHTS OF THE GOVERNMENT.—Each agency head shall acquire on behalf of the United States, at the time of entering into a contract, title to any invention made or conceived in the course of or under any contract of an agency if the agency head determines—

(1) It is the intention of the Government to take such steps as are necessary to achieve practical applications of any inventions likely to be developed under the contract;

(2) The principal purpose of a contract is to develop or improve products, processes, or methods which are intended for use by the general public;

(3) The services of the contractor are for the operation of a Government-owned research or production facility;

(4) Retention of title by the Government is necessary to assure the adequate protection of the public health, safety or welfare;

(5) The contract is in a field of science and technology in which there has been little significant experience outside of work funded by the Government, or where the Government has been the principal developer of the field, and the acquisition of exclusive rights at the time of contracting might confer on the contractor a preferred or dominant position;

(6) Retention of title is necessary because of the classified nature of the work being performed under the contract; or

(7) That the commercial interests of the contractor are not sufficiently established: *Provided*, however, the agency head may subsequently waive all or any part of the rights of the United States under this section to such invention in conformity with the provisions of section 203.

SEC. 202. RIGHTS OF THE CONTRACTOR.—In all other situations not specified in section 201, the contractor or inventor shall have the option of acquiring title to any invention made or conceived under the contract. Such rights, however, shall be subject to the limitations set forth in section 204. Said option shall be exercised at the time of disclosure of the invention or within such time thereafter as may be provided in the contract. The Government shall obtain title to any invention for which this option is not exercised.

SEC. 203. WAIVER.—An agency head may waive all or any part of the rights of the United States under this section to any invention or class of inventions made or which may be made by any person or class of persons in the performance of any work required by any contract of the agency if the agency head determines that the interests of the United States and the general public will be best served thereby. The agency shall maintain a record, which shall be made public and periodically updated, of determina-

tions made under this chapter. In making such determinations, the agency shall consider the following objectives:

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

(2) Promoting the commercial utilization of such inventions;

(3) Encouraging participation by private persons in the Government-sponsored experimental, developmental or research programs; and

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

In making such determinations, the agency head shall consider—

(1) In the case of a nonprofit educational institution, the extent to which such institution has a technology transfer capability and program, approved by the agency head as being consistent with the applicable policies of this section;

(2) The extent to which such waiver is a reasonable and necessary incentive to call forth private risk capital for the development and commercialization of the invention; and

(3) The small business status of the applicant.

SEC. 204. MARCH-IN-RIGHTS. (a) Where a contractor has acquired title to an invention under section 202 or 203 of this title, the Federal agency shall have the right, subject to the provisions of subsection (b), to require the contractor to grant a nonexclusive, partially exclusive, or exclusive license to a responsible applicant or applicants, upon terms reasonable under the circumstances if the agency head determines that such action is necessary—

(1) To alleviate a serious threat to the public health, safety, or welfare needs which is not reasonably satisfied by the contractor or its licensees;

(2) To meet requirements for public use specified by Federal regulation which are not reasonably satisfied by the contractor or its licensees;

(3) Because the exclusive rights to such subject invention held by the contractor have tended substantially to lessen competition or to result in undue market concentration in any section of the United States in any line of commerce to which the technology relates, or to create and maintain other situations inconsistent with the antitrust laws; or

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

(b) The rights of the Federal agency under subsection (a) shall be subject to the prior approval of the Board which shall make its determination after a formal hearing conducted in accordance with the rules, regulations and procedures adopted by the Board.

SEC. 205. GENERAL PROVISIONS.—(a) Each contract entered into by the Government shall contain such terms and conditions as the agency head deems appropriate for the protection of the interests of the United States and the general public, including appropriate provisions to—

(1) Require periodic written reports at reasonable intervals in the commercial utilization or efforts at obtaining commercial utilization that are being made by the inventor or his licensees or assignees: *Provided*, that any such information may be treated by the Federal agency as commercial and financial and confidential and not subject to disclosure under the Freedom of Information Act;

(2) Reserve to the United States at least an irrevocable, nonexclusive, paid-up license to make, use, and sell the invention throughout the world by or on behalf of the United States and States and domesitc municipal governments, unless the agency determines tha it would not be in the public interest to acquire the license for the States and domestic municipal governments;

(3) Require the prompt disclosure by the contractor or inventor to that agency of any invention made under the contract; and

(4) Reserve to the United States and the contractor or inventor rights in each such invention in conformity with the provisions of this title.

(b) Agency determinations as to the rights to inventions under this title shall be made in an expeditious manner without unnecessary delay.

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

TITLE III—ALLOCATION OF RIGHTS—FEDERAL EMPLOYEES

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

(1) The invention was made or conceived during working hours;

(2) The invention was made or conceived with a contribution by the Government of facilities, equipment, materials, funds, or information, or of time or services of other Government employees on official duty; or

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

(b) Where the interest of the Government is insufficient to require retention of title by the Government but the invention bears an indirect relation to the duties of the Federal employee-inventor, the employee shall have the option of acquiring title to such invention, subject, however, to the reservation by the Government of a non-exclusive, irrevocable, royalty-free license in the invention with the power to grant licenses for all governmental purposes. The Government shall obtain title to any invention for which this option is not exercised.

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

SEC. 302. PRESUMPTION OF OWNERSHIP.—(a) In applying the criteria of section 301 to the facts and circumstances relating to the making of any particular invention, it shall be presumed that an invention falls within the criteria of section 301(a) when made by a Federal employee who is employed or assigned to—

(1) Invent, improve, or perfect any art, machine, manufacture, or composition of matter;

(2) Conduct or perform research or development work, or both;

(3) Supervise, direct, coordinate, or review Federally financed or conducted research or development work, or both; or

(4) Act in a liaison capacity among Federal or non-Federal agencies or individuals engaged in such work. (b) The presumption established by subsection (a) may be rebutted by the facts or circumstances of the conditions under which any particular invention is made.

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

(1) The Federal agency fails to obtain title under the provisions of Section 301(a); or

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

SEC. 304. INCENTIVES AWARDS PROGRAM.—(a) Subject to the provisions of this section, the agency head is authorized, upon his own initiative or upon application of any person, to make a monetary award or otherwise offer recognition, in such amount and upon such terms as he shall deem appropriate, to any Federal employee-inventor for any scientific or technical invention determined by the agency head to have significant value.

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

(c) In granting awards under this section, due consideration shall be given to—

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

(2) The amount expended by the employee-inventor for development of such invention;

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

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

(5) The amount of any compensation previously received by the employee-inventor for or on account of the use of such invention by the United States.

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

(e) No award may be made under subsection (a) with respect to any invention unless the applicant surrenders, by such means as the agency head shall determine to be effective, all claims which such applicant may have to receive any compensation (other than the award made under this section) for the use of such invention or any element thereof at any time by or on behalf of the United States or by or on behalf of any foreign government pursuant to any treaty or agreement with the United States, within the United States or at any other place.

(f) No award may be made under subsection (a) in any amount exceeding $100,000, unless the agency head has transmitted to the appropriate committees of the Congress a full and complete report concerning the amount and terms of, and the basis for, such proposed award, and 30 calendar days of regular session of the Congress have expired after receipt of such report by such committees.

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

TITLE IV.—FEDERAL TECHNOLOGY UTILIZATION PROGRAM

SEC. 401. POLICY.—(a) The Congress finds and declares that the large number of inventions owned by the Government constitutes a valuable national resource which is not being effectively exploited for commercial utilization. There is a need for better coordination and direction of Federal efforts to facilitate expeditious development of the products of federally sponsored science and technology research and development.

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

SEC. 402. ESTABLISHMENT.—(a) To assist in carrying out the purpose of this title, the

Secretary of Commerce, in cooperation with other Government agencies, shall establish and maintain a Federal Technology Utilization Program.

(b) The Secretary of Commerce is authorized under this Program to take such action as may be necessary to assure the utilization and protection of patents or other rights in Government-owned inventions, including but not limited to the authority to (1) assist and coordinate agency efforts to promote the licensing and utilization of Government-owned patents and inventions;

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

(3) Develop and manage a Government-wide program designed to stimulate the transfer of Government-owned technology to the private sector through the development, demonstration, and dissemination of information regarding potential applications;

(4) Evaluate inventions referred by Government agencies and patent applications filed thereon in order to identify those inventions with the greatest commercial potential and to insure promotion of inventions so identified;

(5) Assist the Government agencies in seeking protection and maintaining inventions in foreign countries; including the payment of fees and costs connected therewith;

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

(7) To acquire technical information and engage in negotiations and other activities for promoting the licensing and other utilization of Government-owned patent applications, patents or other forms of protection obtained, and to demonstrate the practicability of the inventions for the purpose of enhancing their marketability;

(8) Consult and advise agencies as to areas of science and technology research and development with potential for commercial utilization; and

(9) Receive funds from fees, royalties, sales or other management of Government-owned inventions authorized under this Act: *Provided*, however, that such funds will be used only for the purpose of this Act.

SEC. 403. AGENCY TECHNOLOGY UTILIZATION PROGRAM.—To assist in the transfer of Government-owned innovative technology resulting from Federal research and development for application and use in industry, agriculture, medicine, transportation, and other critical sectors of the economy, each Federal agency shall develop and implement a Technology Utilization Program. Specific program objectives shall include, but not be limited to—

(1) To expedite and facilitate the application and use of technology by shortening the time between generation of advanced technologies and their use in the economy and provide greater incentives for use of socially beneficial innovations;

(2) To encourage multiple secondary uses of technology in industry, education, and government where there is a wide spectrum of technological problems and needs; and

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

SEC. 404. PROTECTION OF RIGHTS.—Each agency head, with the assistance of the Attorney General when necessary, is authorized to take all suitable and necessary steps to protect and enforce the rights of the United States in any invention.

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

TITLE V.—FEDERAL REVIEW BOARD

SEC. 501. (a) There is established within the Executive Branch of the Government a Federal Science and Technology Research and Development Utilization Review Board. The Board shall be composed of three members appointed by the President, with the advice and consent of the Senate. One member of the Board shall be designated Chairman by the President. The members first appointed shall continue in office for the terms of two, four, and six years, respectively, from the date of this Act, the term of each to be designated by the President. Thereafter their successors shall be appointed for terms of six years. Members of the Board shall receive compensation of the rate specified for Level V positions in the Executive Schedule. The Board shall have authority, subject to the civil service and classification laws, to appoint such personnel, including hearing examiners, as are necessary in the exercise of its functions. The Board is authorized to make such expenditures and enter into such contracts as are necessary in the exercise of its functions. The Board shall have an official seal which shall be judicially noticed.

(b) The objects and purposes of the Board shall be to coordinate, direct, and review the implementation and administration of a uniform Federal policy with respect to the ownership of inventions resulting from Federally sponsored research and development.

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

(1) Consult and advise with Federal agencies concerning the effective implementation and operation of the policies, purposes, and objectives of this Act;

(2) Formulate and recommend to the President such proposed rules, regulations, and procedures necessary and desirable to assure the uniform application of the provisions of this Act;

(3) Accumulate, analyze, and disseminate data necessary to evaluate the administration and effectiveness of the policies set forth in this Act;

(4) Determine with finality any dispute between a Government agency and an aggrieved party arising under Title II or Title III of this Act; and

(5) Perform such other duties as may be prescribed by the President or by statute.

(d) The Board shall submit an annual report of its activities to Congress, including therein (1) relevant statistical data regarding the disposition of invention disclosures resulting from Federally-funded research and development; (2) any recommendation as to legislative or administrative changes necessary to achieve the policy and purposes of this Act and, (3) an analysis of the impact of Federal patent policies on the innovative process.

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

(f) The Board shall establish such interagency committees as are necessary to assist in the review and formulation of uniform rules, regulations, and procedures implementing the provisions of this Act.

SEC. 502. AUTHORIZATION FOR APPROPRIATIONS. (a) There are hereby authorized to be appropriated to the Board such sums as may be necessary to carry out the provisions of this Act.

TITLE VI—MISCELLANEOUS

SEC. 601. REPEAL OF EXISTING STATUTORY AUTHORIZATIONS.—The following Acts are hereby amended as follows:

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

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

(c) Section 501(c) of the Federal Coal Mine Health and Safety Act of 1969 (30 U.S.C. 951(c); 83 Stat. 742) is amended by striking out the following: "No research, demonstrations, or experiments shall be carried out, contracted for, sponsored, cosponsored, or authorized under authority of this Act, unless all information, uses, products, processes, patents, and other developments resulting from such research, demonstrations, or experiments will (with such exception and limitation, if any, as the Secretary or the Secretary of Health, Education, and Welfare may find to be necessary in the public interest) be available to the general public.".

(d) Section 106(c) of the National Traffic and Motor Vehicle Safety Act of 1966 (15 U.S.C. 1395(c); 80 Stat. 721) is repealed.

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

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

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

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

(2) By inserting the following new Section 305:

"SEC. 305. INVENTIONS AND CONTRIBUTIONS BOARD.—Each proposal for any waiver of patent rights held by the Administrator shall be referred to an Inventions and Contributions Board which shall be established by the Administrator within the Administration. Such Board shall accord to each interested party an opportunity for hearing, and shall transmit to the Administrator its findings of fact with respect to such proposal and its recommendations for action to be taken with respect thereto.";

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

(4) By inserting at the end of section 203(b) thereof (42 U.S.C. 2478(a)); the following new paragraph:

"(14) to provide effective contractual provisions for reporting of the results of the activities of the Administration, including full and complete technical reporting of any innovation made in the course of or under any contract of the Administration.";

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

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

(6) By striking out the following in such section: "(including patents and rights thereunder)."

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

(i) Section 4 of the Helium Act Amendments of 1960 (50 U.S.C. 167b; 74 Stat. 920) is amended by striking out the following: "Provided, however, that all research contracted for, sponsored, cosponsored, or authorized under authority of this Act shall be provided for in such a manner that all information, uses, processes, patents, and other developments resulting from such research developed by Government expenditure will (with such exceptions and limitations, if any, as the Secretary may find to be necessary in the interest of national defense) be available to the general public: And provided further, that nothing contained herein shall be construed as to deprive the owner of any background patent relating thereto to such rights as he may have thereunder." and by inserting in lieu thereof a period.

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

(k) Subsection (e) of section 302 of the Appalachian Regional Development Act of 1965 (40 U.S.C. App. 302(e); 79 Stat. 5) is repealed.

(l) Subsection (e) of section 203 of the Solid Waste Disposal Act (42 U.S.C. 3253(c); 88 Stat. 997) is repealed.

(m) Section 216 of title 38, United States Code, is amended by striking out subsection (a)(2) thereof and by redesignating subsection (a)(3) thereof as (a)(2).

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

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

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

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

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

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

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

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

SEC. 602. EFFECTIVE DATE. This Act shall take effect six months after the date of enactment of this Act.

SEC. 603. AUTHORIZATION FOR APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act.●

By Mr. PELL:

S. 3628. A bill to establish the Bill of Rights Commemoration Commission, and for other purposes; to the Committee on the Judiciary.

BILL OF RIGHTS COMMEMORATION COMMISSION

● Mr. PELL. Mr. President, Ernest Cuneo, a very good and old friend, discussed with me the importance and desirability of celebrating and giving due honor to the 200th anniversary of the Bill of Rights. Spurred on by his thought, I have come to the conclusion that this should be done and this text approval would be to establish a Bill of Rights Commemoration Commission and for this reason introduces legislation for this purpose.●

By Mr. SCHMITT:

S. 3629. A bill to amend title 5, United States Code, to improve and systematize the procedures for the promulgation of rules and for establishing a uniform procedure for congressional review of executive branch rules which may have a harmful impact on the public, may be contrary to law, or may be inconsistent with congressional intent; to expand opportunities for public participation in Federal agency rulemaking; to establish a Joint Commission on Administrative Rules; and for other purposes; to the Committee on Governmental Affairs.

REGULATORY REDUCTION AND CONGRESSIONAL CONTROL ACT

● Mr. SCHMITT. Mr. President, I am reintroducing today S. 2011, the Regulatory Reduction and Congressional Control Act, which I previously introduced in 1977. This legislation is designed to return to the Congress its constitutionally mandated prerogative to control the creation of laws.

Hearings were conducted on S. 2011 on the 12th, 13th, and 20th of September, during which testimony was received from several distinguished economists, experts in constitutional law, State legislators, a former Director of the National Commission on Paperwork, the American Bar Association, represenatives from consumer groups, and many others. As a result of a number of important points made in this testimony, I have made several changes in the original version of this bill.

These changes include the following:

Sunset. S. 2011 would have required the "sunset" of agency regulations after 5 years. This provision has been deleted from the new version of the bill in favor of a procedure which would allow for Congress to target individual regulations for reconsideration. The agency would then be required to repromulgate the regulation, subjecting it to congressional review and disapproval if appropriate.

While the concept of terminating all regulations at some point in time after promulgation has some merit, testimony has indicated that it would impose an unnecessarily burdensome workload on Congress, and that the "rifleshot" approach of a resolution of reconsideration is superior.

Resolution of approval. The original version of S. 2011 required that before any regulation whose impact exceeds $100 million in any year may go into effect, it must first be approved by both Houses of Congress. All other regulations would be subject to disapproval. In the interests of simplicity, so that all regulations would be handled with the same procedure and because of some possible constitutional questions, this provision has been dropped in favor of requiring all rules to be subject only to a resolution of disapproval passed by either the Senate or the House.

Legislative disapproval of proposed rules. S. 2011 provided for proposed rules to be disapproved by the action of either House of Congress. Because of the concerns expressed that this procedure might exclude one House of Congress from participating in the disapproval of a regulation, the revised version incorporates a new mechanism. Under this procedure, a regulation would not go into effect should one House approve a resolution of disapproval, provided that the resolution of disapproval is not disapproved by the other House. Not only does this procedure provide for participation by both Houses of Congress in the disapproval of a regulation, it overcomes the constitutional objections to resolution of disapproval requiring two-House approval without a Presidential role.

Economic impact statements. S. 2011 required a complete economic impact statement for all regulations promulgated by Federal Departments and agencies. Testimony from noted economists has suggested that this kind of analysis, while valuable, should not be imposed upon all regulations. Thus, the revised version of S. 2011 requires only that agencies conduct a preliminary review of economic impact for all regulations, reserving the requirements of the full economic impact statement only to those regulations whose costs to the economy exceeds $100 million. Preliminary impact statements would be required with publication of a proposed rule and final statements required with submission of the rule to Congress priod to final promulgation.

General Accounting Office. S. 2011 would have required proposed rules and accompanying impact statements to be submitted directly to Congress for referral to the appropriate standing committee. The revised version of S. 2011 provides for General Accounting Office review of the economic impact statements required under the bill to review an agency's determination that the benefits of the proposed rule exceed its costs. This procedure was developed in response to suggestions that the standing committees would not have the staff nor the expertise to handle this responsibility effectively.

Joint Committee on Administrative Rulemaking. S. 2011 would have required for proposed rules and economic impact statements to be referred to the appropriate standing committees. Testimony received from distinguished State legislators indicated that a great many States have found it more efficient, more effective and less subject to pressure from special interests to consolidate personnel and expertise in a single joint committee. The revised version S. 2011 would establish such a committee in the Congress, and would provide it with the necessary authority to review agency rules and to act on reporting resolutions of disapproval introduced against a proposed rate.

Consolidation of impact statements. S. 2011 required agencies to prepare economic, paperwork and judicial impact statements, where applicable, for each proposed rule. In response to concerns that have been expressed over the proliferation of impact statements, in the new version, these three statements have been consolidated and streamlined into a single impact statement.

This legislation, with the improvements which have been made as a re-