

105TH CONGRESS  
2D SESSION

# S. 1874

To improve the ability of small businesses, Federal agencies, industry, and universities to work with Department of Energy contractor-operated facilities, and for other purposes.

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## IN THE SENATE OF THE UNITED STATES

MARCH 27, 1998

Mr. DOMENICI (for himself, Mr. LIEBERMAN, Mr. THOMPSON, Mr. BINGAMAN, and Mr. REID) introduced the following bill; which was read twice and referred to the Committee on Energy and Natural Resources

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## A BILL

To improve the ability of small businesses, Federal agencies, industry, and universities to work with Department of Energy contractor-operated facilities, and for other purposes.

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

### 3   **SECTION 1. SHORT TITLE.**

4       This Act may be cited as the “Department of Energy  
5   Small Business and Industry Partnership Enhancement  
6   Act of 1998”.

### 7   **SEC. 2. FINDINGS.**

8       Congress finds that—

1           (1) partnerships between contractor-operated  
2 facilities of the Department of Energy and small  
3 businesses can enhance growth of competitive small  
4 business opportunities;

5           (2) the contractor-operated facilities represent a  
6 national resource in science and technology;

7           (3) capacity for innovation in the United States  
8 is enhanced when the capabilities of the contractor-  
9 operated facilities are engaged with other providers  
10 and users of the Nation's science and technology  
11 base;

12           (4) contributors to the Nation's science and  
13 technology delivery system, Federal agencies, private  
14 industry, universities, and the contractor-operated  
15 facilities can best perform their missions through  
16 partnerships and interactions that leverage the re-  
17 sources of each such entity;

18           (5) interactions of the contractor-operated fa-  
19 cilities with industry and universities serve to—

20               (A) expand the technology base available  
21 for missions of the Department of Energy; and

22               (B) instill sound business practices in the  
23 contractor-operated facilities to enable cost-ef-  
24 fective realization of the Federal missions of the  
25 facilities;

1           (6) the contractor-operated facilities benefit  
2           from university interactions through access to lead-  
3           ing edge research and through recruitment of the  
4           talent needed to pursue the missions of the facilities;

5           (7) industry can improve products and proc-  
6           esses leading to an enhanced competitive position  
7           through simplified access to the science and tech-  
8           nology developed by the contractor-operated facili-  
9           ties; and

10          (8) other Federal agencies can advance their  
11          own missions by using capabilities developed within  
12          the contractor-operated facilities.

13 **SEC. 3. PURPOSES.**

14          The purposes of this Act are—

15           (1) to improve the ability of small businesses,  
16           Federal agencies, industry, and universities to work  
17           with the contractor-operated facilities of the Depart-  
18           ment of Energy while ensuring full cost recovery of  
19           each contractor-operated facility's expenses incurred  
20           in such work;

21           (2) to encourage the contractor-operated facili-  
22           ties to expand their partnerships with universities  
23           and industries; and

24           (3) to expand interactions of contractor-oper-  
25           ated facilities with small businesses so as to—

1 (A) encourage commercial evaluation and  
2 development of the science and technology base  
3 of the contractor-operated facilities; and

4 (B) provide technical assistance to small  
5 businesses.

6 **SEC. 4. CONTRACT RESEARCH SERVICES.**

7 Section 31a. of the Atomic Energy Act of 1954 (42  
8 U.S.C. 2051(a)) is amended—

9 (1) in paragraph (5), by striking “and” at the  
10 end;

11 (2) in paragraph (6), by striking the period at  
12 the end and inserting “; and”; and

13 (3) by adding at the end the following:

14 “(7) areas of technology within the mission of  
15 the Department of Energy as authorized by law.”.

16 **SEC. 5. COST RECOVERY.**

17 Section 33 of the Atomic Energy Act of 1954 (42  
18 U.S.C. 2053) is amended—

19 (1) by striking “SEC. 33. RESEARCH FOR OTH-  
20 ERS.—Where” and inserting the following:

21 **“SEC. 33. RESEARCH FOR OTHERS.**

22 “(a) IN GENERAL.—Where”; and

23 (2) by striking the last sentence and inserting  
24 the following:

25 “(b) COST RECOVERY.—

1           “(1) IN GENERAL.—In carrying out subsection  
2           (a), the Secretary of Energy shall not recover more  
3           than the full cost of work incurred at contractor-op-  
4           erated facilities of the Department of Energy.

5           “(2) ADMINISTRATIVE COSTS.—Any costs in-  
6           curred by the Department of Energy in connection  
7           with work performed by contractor-operated facilities  
8           of the Department of Energy shall be funded from  
9           departmental administration accounts of the Depart-  
10          ment of Energy.

11          “(3) CHARGES.—For work performed for a per-  
12          son other than the Department of Energy (including  
13          non-Federal entities and Federal agencies other than  
14          the Department of Energy) (referred to in this para-  
15          graph as an ‘external customer’), a contractor-oper-  
16          ated facility may assess a charge in an amount that  
17          does not exceed the sum of —

18                 “(A) the direct cost to the contractor in  
19                 performing the work for the external customer;  
20                 and

21                 “(B) a pro rata share of overhead charges  
22                 for overhead-funded services directly required  
23                 for performance of the specific work for exter-  
24                 nal customers as a whole or to a category of ex-

1           ternal customers that includes the external cus-  
2           tomer.”.

3   **SEC. 6. PARTNERSHIPS WITH UNIVERSITIES AND INDUS-**  
4                   **TRY.**

5           (a) IN GENERAL.—Chapter 4 of title I of the Atomic  
6   Energy Act of 1954 (42 U.S.C. 2051 et seq.) is amended  
7   by adding at the end the following:

8   **“SEC. 34. CONTRACTOR-OPERATED FACILITIES OF THE DE-**  
9                   **PARTMENT OF ENERGY.**

10          “(a) METRICS.—

11               “(1) DEFINITION OF METRICS.—In this sub-  
12          section, the term ‘metrics’ means a system of meas-  
13          urements to determine levels of specific areas of per-  
14          formance.

15               “(2) INCLUSION IN CONTRACTS.—Metrics—

16                   “(A) shall be developed jointly by the Sec-  
17          retary of Energy and each contractor operating  
18          a facility of the Department of Energy to en-  
19          sure that realistic goals are established that are  
20          directly supportive of the mission and respon-  
21          sibilities of the contractor-operated facility;

22                   “(B) shall be specified in the contract for  
23          operation of the facility; and

24                   “(C) shall be used to evaluate the effective-  
25          ness of partnership development by the facility.

1 “(b) PARTNERSHIPS AND INTERACTIONS.—

2 “(1) ENCOURAGEMENT OF PARTNERSHIPS AND  
3 INTERACTIONS.—The Secretary of Energy shall en-  
4 courage partnerships and interactions with univer-  
5 sities and private industry at each contractor-oper-  
6 ated facility.

7 “(2) COMPONENT OF PERFORMANCE EVALUA-  
8 TIONS.—The development and expansion of partner-  
9 ships and interactions with universities and private  
10 industry shall be a component in evaluating the an-  
11 nual performance of each contractor-operated facil-  
12 ity.

13 “(c) SMALL BUSINESS TECHNOLOGY PARTNERSHIP  
14 PROGRAM.—

15 “(1) IN GENERAL.—The Secretary of Energy  
16 shall require that each contractor operating a facility  
17 of the Department of Energy create a small business  
18 technology partnership program at each contractor-  
19 operated facility.

20 “(2) FUNDING LEVEL.—A contractor may  
21 spend not more than 0.25 percent of the total oper-  
22 ating budget of a contractor-operated facility on the  
23 program.

24 “(3) EVALUATIONS.—The Secretary shall annu-  
25 ally evaluate the effectiveness of the program with

1       each contractor to ensure that the program is pro-  
 2       viding opportunities for small businesses to interact  
 3       with and use the resources of each contractor-oper-  
 4       ated facility.

5               “(4) USE OF FUNDS.—Funds from the pro-  
 6       gram—

7                       “(A) shall be used to cover a contractor-  
 8               operated facility’s costs of interactions with  
 9               small businesses; and

10                      “(B) shall not be used for direct monetary  
 11               grants to small businesses.”.

12       (b) CONFORMING AMENDMENT.—The table of con-  
 13       tents of the Atomic Energy Act of 1954 (42 U.S.C. prec.  
 14       2011) is amended by adding at the end of the items relat-  
 15       ing to chapter 4 of title I the following:

“Sec. 34. Contractor-operated Facilities of the Department of Energy.”.

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