

113TH CONGRESS
2D SESSION

H. R. 5120

IN THE SENATE OF THE UNITED STATES

JULY 23, 2014

Received; read twice and referred to the Committee on Energy and Natural
Resources

AN ACT

To improve management of the National Laboratories, enhance technology commercialization, facilitate public-private partnerships, 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,*

1 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

2 (a) SHORT TITLE.—This Act may be cited as the
 3 “Department of Energy Laboratory Modernization and
 4 Technology Transfer Act of 2014”.

5 (b) TABLE OF CONTENTS.—The table of contents of
 6 this Act is as follows:

Sec. 1. Short title; table of contents.
 Sec. 2. Definitions.
 Sec. 3. Savings clause.

TITLE I—INNOVATION MANAGEMENT AT DEPARTMENT OF
 ENERGY

Sec. 101. Under Secretary for Science and Energy.
 Sec. 102. Technology transfer assessment.
 Sec. 103. Sense of Congress.

TITLE II—CROSS-SECTOR PARTNERSHIPS AND GRANT
 COMPETITIVENESS

Sec. 201. Agreements for Commercializing Technology pilot program.
 Sec. 202. Public-private partnerships for commercialization.
 Sec. 203. Inclusion of early-stage technology demonstration in authorized tech-
 nology transfer activities.
 Sec. 204. Funding competitiveness for institutions of higher education and
 other nonprofit institutions.
 Sec. 205. Participation in the Innovation Corps program.

TITLE III—ASSESSMENT OF IMPACT

Sec. 301. Report by Government Accountability Office.

7 **SEC. 2. DEFINITIONS.**

8 In this Act:

9 (1) DEPARTMENT.—The term “Department”
 10 means the Department of Energy.

11 (2) NATIONAL LABORATORIES.—The term “Na-
 12 tional Laboratory” means a Department of Energy
 13 nonmilitary national laboratory, including—

14 (A) Ames Laboratory;

- 1 (B) Argonne National Laboratory;
2 (C) Brookhaven National Laboratory;
3 (D) Fermi National Accelerator Labora-
4 tory;
5 (E) Idaho National Laboratory;
6 (F) Lawrence Berkeley National Labora-
7 tory;
8 (G) National Energy Technology Labora-
9 tory;
10 (H) National Renewable Energy Labora-
11 tory;
12 (I) Oak Ridge National Laboratory;
13 (J) Pacific Northwest National Labora-
14 tory;
15 (K) Princeton Plasma Physics Laboratory;
16 (L) Savannah River National Laboratory;
17 (M) Stanford Linear Accelerator Center;
18 (N) Thomas Jefferson National Accel-
19 erator Facility; and
20 (O) any laboratory operated by the Na-
21 tional Nuclear Security Administration, but
22 only with respect to the civilian energy activities
23 thereof.
- 24 (3) SECRETARY.—The term “Secretary” means
25 the Secretary of Energy.

1 **SEC. 3. SAVINGS CLAUSE.**

2 Nothing in this Act or an amendment made by this
3 Act abrogates or otherwise affects the primary responsibil-
4 ities of any National Laboratory to the Department.

5 **TITLE I—INNOVATION MANAGE-**
6 **MENT AT DEPARTMENT OF**
7 **ENERGY**

8 **SEC. 101. UNDER SECRETARY FOR SCIENCE AND ENERGY.**

9 (a) IN GENERAL.—Section 202(b) of the Department
10 of Energy Organization Act (42 U.S.C. 7132(b)) is
11 amended—

12 (1) by striking “Under Secretary for Science”
13 each place it appears and inserting “Under Sec-
14 retary for Science and Energy”; and

15 (2) in paragraph (4)—

16 (A) in subparagraph (F), by striking
17 “and” at the end;

18 (B) in subparagraph (G), by striking the
19 period at the end and inserting a semicolon;
20 and

21 (C) by inserting after subparagraph (G)
22 the following:

23 “(H) establish appropriate linkages be-
24 tween offices under the jurisdiction of the
25 Under Secretary; and

1 “(I) perform such functions and duties as
2 the Secretary shall prescribe, consistent with
3 this section.”.

4 (b) CONFORMING AMENDMENTS.—

5 (1) Section 3164(b)(1) of the Department of
6 Energy Science Education Enhancement Act (42
7 U.S.C. 7381a(b)(1)) is amended by striking “Under
8 Secretary for Science” and inserting “Under Sec-
9 retary for Science and Energy”.

10 (2) Section 641(h)(2) of the United States En-
11 ergy Storage Competitiveness Act of 2007 (42
12 U.S.C. 17231(h)(2)) is amended by striking “Under
13 Secretary for Science” and inserting “Under Sec-
14 retary for Science and Energy”.

15 **SEC. 102. TECHNOLOGY TRANSFER ASSESSMENT.**

16 Not later than 180 days after the date of enactment
17 of this Act, the Secretary shall transmit to the Committee
18 on Science, Space, and Technology of the House of Rep-
19 resentatives and the Committee on Energy and Natural
20 Resources of the Senate a report which shall include—

21 (1) an assessment of the Department’s current
22 ability to carry out the goals of section 1001 of the
23 Energy Policy Act of 2005 (42 U.S.C. 16391), in-
24 cluding an assessment of the role and effectiveness

1 of the Technology Transfer Coordinator position;
2 and

3 (2) recommended departmental policy changes
4 and legislative changes to section 1001 of the En-
5 ergy Policy Act of 2005 (42 U.S.C. 16391) to im-
6 prove the Department's ability to successfully trans-
7 fer new energy technologies to the private sector.

8 **SEC. 103. SENSE OF CONGRESS.**

9 It is the sense of the Congress that—

10 (1) the establishment of the independent Com-
11 mission to Review the Effectiveness of the National
12 Energy Laboratories under section 319 of title III of
13 division D of the Consolidated Appropriations Act,
14 2014, is an important step towards developing a co-
15 ordinated strategy for the National Laboratories in
16 the 21st century;

17 (2) Congress looks forward to—

18 (A) receiving the findings and conclusions
19 of the Commission; and

20 (B) engaging with the Administration—

21 (i) in strengthening the mission of the
22 National Laboratories; and

23 (ii) to reform and modernize the oper-
24 ations and management of the National
25 Laboratories; and

1 (3) the Secretary should encourage the National
2 Laboratories and federally funded research and de-
3 velopment centers to inform small businesses of the
4 opportunities and resources that exist pursuant to
5 this Act.

6 **TITLE II—CROSS-SECTOR PART-**
7 **NERSHIPS AND GRANT COM-**
8 **PETITIVENESS**

9 **SEC. 201. AGREEMENTS FOR COMMERCIALIZING TECH-**
10 **NOLOGY PILOT PROGRAM.**

11 (a) IN GENERAL.—The Secretary shall carry out the
12 Agreements for Commercializing Technology pilot pro-
13 gram of the Department, as announced by the Secretary
14 on December 8, 2011, in accordance with this section.

15 (b) TERMS.—Each agreement entered into pursuant
16 to the pilot program referred to in subsection (a) shall
17 provide to the contractor of the applicable National Lab-
18 oratory, to the maximum extent determined to be appro-
19 priate by the Secretary, increased authority to negotiate
20 contract terms, such as intellectual property rights, pay-
21 ment structures, performance guarantees, and multiparty
22 collaborations.

23 (c) ELIGIBILITY.—

1 (1) IN GENERAL.—Any director of a National
2 Laboratory may enter into an agreement pursuant
3 to the pilot program referred to in subsection (a).

4 (2) AGREEMENTS WITH NON-FEDERAL ENTI-
5 TIES.—To carry out paragraph (1) and subject to
6 paragraph (3), the Secretary shall permit the direc-
7 tors of the National Laboratories to execute agree-
8 ments with a non-Federal entity, including a non-
9 Federal entity already receiving Federal funding
10 that will be used to support activities under agree-
11 ments executed pursuant to paragraph (1), provided
12 that such funding is solely used to carry out the
13 purposes of the Federal award.

14 (3) RESTRICTION.—The requirements of chap-
15 ter 18 of title 35, United States Code (commonly
16 known as the “Bayh-Dole Act”) shall apply if—

17 (A) the agreement is a funding agreement
18 (as that term is defined in section 201 of that
19 title); and

20 (B) at least 1 of the parties to the funding
21 agreement is eligible to receive rights under
22 that chapter.

23 (d) SUBMISSION TO SECRETARY.—Each affected di-
24 rector of a National Laboratory shall submit to the Sec-

1 retary, with respect to each agreement entered into under
2 this section—

3 (1) a summary of information relating to the
4 relevant project;

5 (2) the total estimated costs of the project;

6 (3) estimated commencement and completion
7 dates of the project; and

8 (4) other documentation determined to be ap-
9 propriate by the Secretary.

10 (e) CERTIFICATION.—The Secretary shall require the
11 contractor of the affected National Laboratory to certify
12 that each activity carried out under a project for which
13 an agreement is entered into under this section—

14 (1) is not in direct competition with the private
15 sector; and

16 (2) does not present, or minimizes, any appar-
17 ent conflict of interest, and avoids or neutralizes any
18 actual conflict of interest, as a result of the agree-
19 ment under this section.

20 (f) EXTENSION.—The pilot program referred to in
21 subsection (a) shall be extended for a term of 2 years after
22 the date of enactment of this Act.

23 (g) REPORTS.—

24 (1) OVERALL ASSESSMENT.—Not later than 60
25 days after the date described in subsection (f), the

1 Secretary, in coordination with directors of the Na-
2 tional Laboratories, shall submit to the Committee
3 on Science, Space, and Technology of the House of
4 Representatives and the Committee on Energy and
5 Natural Resources of the Senate a report that—

6 (A) assesses the overall effectiveness of the
7 pilot program referred to in subsection (a);

8 (B) identifies opportunities to improve the
9 effectiveness of the pilot program;

10 (C) assesses the potential for program ac-
11 tivities to interfere with the responsibilities of
12 the National Laboratories to the Department;
13 and

14 (D) provides a recommendation regarding
15 the future of the pilot program.

16 (2) TRANSPARENCY.—The Secretary, in coordi-
17 nation with directors of the National Laboratories,
18 shall submit to the Committee on Science, Space,
19 and Technology of the House of Representatives and
20 the Committee on Energy and Natural Resources of
21 the Senate an annual report that accounts for all
22 incidences of, and provides a justification for, non-
23 Federal entities using funds derived from a Federal
24 contract or award to carry out agreements pursuant
25 to this section.

1 **SEC. 202. PUBLIC-PRIVATE PARTNERSHIPS FOR COMMER-**
2 **CIALIZATION.**

3 (a) IN GENERAL.—Subject to subsections (b) and (c),
4 the Secretary shall delegate to directors of the National
5 Laboratories signature authority with respect to any
6 agreement described in subsection (b) the total cost of
7 which (including the National Laboratory contributions
8 and project recipient cost share) is less than \$1,000,000.

9 (b) AGREEMENTS.—Subsection (a) applies to—

10 (1) a cooperative research and development
11 agreement;

12 (2) a non-Federal work-for-others agreement;
13 and

14 (3) any other agreement determined to be ap-
15 propriate by the Secretary, in collaboration with the
16 directors of the National Laboratories.

17 (c) ADMINISTRATION.—

18 (1) ACCOUNTABILITY.—The director of the af-
19 fected National Laboratory and the affected con-
20 tractor shall carry out an agreement under this sec-
21 tion in accordance with applicable policies of the De-
22 partment, including by ensuring that the agreement
23 does not compromise any national security, eco-
24 nomic, or environmental interest of the United
25 States.

1 (2) CERTIFICATION.—The director of the af-
2 fected National Laboratory and the affected con-
3 tractor shall certify that each activity carried out
4 under a project for which an agreement is entered
5 into under this section does not present, or mini-
6 mizes, any apparent conflict of interest, and avoids
7 or neutralizes any actual conflict of interest, as a re-
8 sult of the agreement under this section.

9 (3) AVAILABILITY OF RECORDS.—On entering
10 an agreement under this section, the director of a
11 National Laboratory shall submit to the Secretary
12 for monitoring and review all records of the National
13 Laboratory relating to the agreement.

14 (4) RATES.—The director of a National Lab-
15 oratory may charge higher rates for services per-
16 formed under a partnership agreement entered into
17 pursuant to this section, regardless of the full cost
18 of recovery, if such funds are used exclusively to
19 support further research and development activities
20 at the respective National Laboratory.

21 (d) CONFORMING AMENDMENT.—Section 12 of the
22 Stevenson-Wydler Technology Innovation Act of 1980 (15
23 U.S.C. 3710a) is amended—

24 (1) in subsection (a)—

1 (A) by redesignating paragraphs (1) and
2 (2) as subparagraphs (A) and (B), respectively,
3 and indenting the subparagraphs appropriately;

4 (B) by striking “Each Federal agency”
5 and inserting the following:

6 “(1) IN GENERAL.—Except as provided in para-
7 graph (2), each Federal agency”; and

8 (C) by adding at the end the following:

9 “(2) EXCEPTION.—Notwithstanding paragraph
10 (1), in accordance with section 202(a) of the Depart-
11 ment of Energy Laboratory Modernization and
12 Technology Transfer Act of 2014, approval by the
13 Secretary of Energy shall not be required for any
14 technology transfer agreement proposed to be en-
15 tered into by a National Laboratory of the Depart-
16 ment of Energy, the total cost of which (including
17 the National Laboratory contributions and project
18 recipient cost share) is less than \$1,000,000.”; and

19 (2) in subsection (b), by striking “subsection
20 (a)(1)” each place it appears and inserting “sub-
21 section (a)(1)(A)”.

1 **SEC. 203. INCLUSION OF EARLY-STAGE TECHNOLOGY DEM-**
2 **ONSTRATION IN AUTHORIZED TECHNOLOGY**
3 **TRANSFER ACTIVITIES.**

4 Section 1001 of the Energy Policy Act of 2005 (42
5 U.S.C. 16391) is amended by—

6 (1) redesignating subsection (g) as subsection
7 (h); and

8 (2) inserting after subsection (f) the following:

9 “(g) **EARLY-STAGE TECHNOLOGY DEMONSTRA-**
10 **TION.**—The Secretary shall permit the directors of the Na-
11 tional Laboratories to use funds authorized to support
12 technology transfer within the Department to carry out
13 early-stage and pre-commercial technology demonstration
14 activities to remove technology barriers that limit private
15 sector interest and demonstrate potential commercial ap-
16 plications of any research and technologies arising from
17 National Laboratory activities.”.

18 **SEC. 204. FUNDING COMPETITIVENESS FOR INSTITUTIONS**
19 **OF HIGHER EDUCATION AND OTHER NON-**
20 **PROFIT INSTITUTIONS.**

21 Section 988(b) of the Energy Policy Act of 2005 (42
22 U.S.C. 16352(b)) is amended—

23 (1) in paragraph (1), by striking “Except as
24 provided in paragraphs (2) and (3)” and inserting
25 “Except as provided in paragraphs (2), (3), and
26 (4)”;

1 (2) by adding at the end the following:

2 “(4) EXEMPTION FOR INSTITUTIONS OF HIGH-
3 ER EDUCATION AND OTHER NONPROFIT INSTITU-
4 TIONS.—

5 “(A) IN GENERAL.—Paragraph (1) shall
6 not apply to a research or development activity
7 performed by an institution of higher education
8 or nonprofit institution (as defined in section 4
9 of the Stevenson-Wydler Technology Innovation
10 Act of 1980 (15 U.S.C. 3703)).

11 “(B) TERMINATION DATE.—The exemp-
12 tion under subparagraph (A) shall apply during
13 the 6-year period beginning on the date of en-
14 actment of this paragraph.”.

15 **SEC. 205. PARTICIPATION IN THE INNOVATION CORPS PRO-**
16 **GRAM.**

17 The Secretary may enter into an agreement with the
18 Director of the National Science Foundation to enable re-
19 searchers funded by the Department to participate in the
20 National Science Foundation Innovation Corps program.

1 **TITLE III—ASSESSMENT OF**
2 **IMPACT**

3 **SEC. 301. REPORT BY GOVERNMENT ACCOUNTABILITY OF-**
4 **FICE.**

5 Not later than 3 years after the date of enactment
6 of this Act, the Comptroller General of the United States
7 shall submit to Congress a report—

8 (1) describing the results of the projects devel-
9 oped under sections 201, 202, and 203, including in-
10 formation regarding—

11 (A) partnerships initiated as a result of
12 those projects and the potential linkages pre-
13 sented by those partnerships with respect to na-
14 tional priorities and other taxpayer-funded re-
15 search; and

16 (B) whether the activities carried out
17 under those projects result in—

18 (i) fiscal savings;

19 (ii) expansion of National Laboratory
20 capabilities;

21 (iii) increased efficiency of technology
22 transfers; or

23 (iv) an increase in general efficiency
24 of the National Laboratory system; and

1 (2) assess the scale, scope, efficacy, and impact
2 of the Department's efforts to promote technology
3 transfer and private sector engagement at the Na-
4 tional Laboratories, and make recommendations on
5 how the Department can improve these activities.

Passed the House of Representatives July 22, 2014.

Attest:

KAREN L. HAAS,

Clerk.