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H. R. 1850

To provide incentives for universities to develop effective technology development and technology transfer programs, and to enter into partnership with businesses, in coordination with State and local governments, to develop technologies and processes critical to meeting specific national goals and promoting the long-term vitality of local communities.

IN THE HOUSE OF REPRESENTATIVES

APRIL 26, 1993

Ms. DELAURO introduced the following bill; which was referred jointly to the Committees on Science, Space, and Technology, Education and Labor, Ways and Means, and the Judiciary

A BILL

To provide incentives for universities to develop effective technology development and technology transfer programs, and to enter into partnership with businesses, in coordination with State and local governments, to develop technologies and processes critical to meeting specific national goals and promoting the long-term vitality of local communities.

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 “University-Industry
5 Technology Development Act”.

1 **SEC. 2. FINDINGS.**

2 The Congress finds that—

3 (1) innovation in high technology fields, includ-
4 ing the development of new generic basic infrastruc-
5 ture technologies, and the rapid adoption and com-
6 mercialization of these technologies and processes
7 are increasingly important to ensuring—

8 (A) the continued growth of the Nation's
9 economy;

10 (B) the Nation's continued leadership and
11 competitive strength in the emerging global
12 market;

13 (C) the health and well-being of our Na-
14 tion's citizens; and

15 (D) national security;

16 (2) United States research universities have
17 played and will continue to play a vital role in laying
18 the foundation for innovation in high technology
19 fields;

20 (3) timely commercial application of the results
21 of basic research underway at our Nation's univer-
22 sities depends on the actions and skills of business
23 and labor;

24 (4) encouraging the participation of State and
25 local government in the development and commer-

1 cialization of new technologies is in the Nation's in-
2 terest;

3 (5) many of the industrialized nations with
4 which the United States competes in the global mar-
5 ket have developed national policies to support uni-
6 versity-based innovation and development in high
7 technology fields and to support rapid commercial
8 adoption of advanced manufacturing technologies
9 and processes, including—

10 (A) reducing the cost of capital to busi-
11 nesses developing these technologies and proc-
12 esses;

13 (B) promoting the continued education of
14 the workforce; and

15 (C) providing numerous other measures
16 designed to lessen the risk and cost to individ-
17 ual enterprises of long-term investments in new
18 technologies and systematic upgrades of manu-
19 facturing processes;

20 (6) current United States national policy does
21 not provide similar levels of support of the kinds de-
22 scribed in paragraph (5); and

23 (7) in order to accomplish the goals stated in
24 paragraph (1)(A) through (D), the United States

1 must develop and implement policies of the kinds de-
2 scribed in paragraph (5).

3 **SEC. 3. ESTABLISHMENT OF PROGRAM.**

4 (a) UNIVERSITY TECHNOLOGY DEVELOPMENT PRO-
5 GRAMS.—The Secretary shall establish a program for the
6 selection of University Technology Development Pro-
7 grams, in accordance with the requirements of this Act,
8 that will further the goals stated in subsection (c). Such
9 program shall provide incentives and assistance to univer-
10 sities seeking to develop broad university-led programs de-
11 signed to foster the discovery, evaluation, and initial devel-
12 opment to the proof of concept stage of commercially
13 promising basic research undertaken at the university or
14 universities taking part in the program.

15 (b) UNIVERSITY-INDUSTRY TECHNOLOGY PARTNER-
16 SHIPS.—The Secretary shall establish a program for the
17 selection of University-Industry Technology Partnerships,
18 in accordance with the requirements of this Act, that will
19 further the goals stated in subsection (c). Such program
20 shall provide incentives and assistance for businesses and
21 universities, in coordination with State and local govern-
22 ments, to enter into partnerships to develop commercial
23 applications for new technologies and processes.

24 (c) GOALS.—The goals referred to in subsections (a)
25 and (b) are—

1 (1) continued growth of the Nation's economy;

2 (2) the Nation's continued leadership and com-
3 petitive strength in the emerging global market;

4 (3) the health and well-being of our Nation's
5 citizens; and

6 (4) national security,

7 through the development of innovations in high technology
8 fields and processes critical to meeting those goals and
9 promoting the long-term vitality of local communities.

10 **SEC. 4. REGULATIONS.**

11 Not later than 120 days after the date of enactment
12 of this Act, the Secretary shall issue regulations—

13 (1) that specify the required contents and form
14 of preliminary requests for consideration required
15 under section 5 and of applications required under
16 sections 7 and 8;

17 (2) that establish procedures and schedules for
18 the approval of preliminary requests for consider-
19 ation under section 5, and for the selection of Uni-
20 versity Technology Development Programs and Uni-
21 versity-Industry Technology Partnerships under sec-
22 tion 11;

23 (3) that determine the forms of assistance
24 available to applicants under section 6, procedures
25 for determining the cost of completing an application

1 required under section 7 or 8, and procedures for
2 determining the amount of assistance each applicant
3 shall receive under section 6;

4 (4) that determine the forms of assistance
5 available to University Technology Development Pro-
6 grams and University-Industry Technology Partner-
7 ships under section 12; and

8 (5) as required under section 15.

9 **SEC. 5. PRELIMINARY REQUEST FOR CONSIDERATION.**

10 (a) TIME OF SUBMITTAL.—After final regulations
11 are issued under section 4, at a time determined by the
12 Secretary to be appropriate, and annually thereafter for
13 an additional 5 years, any party or parties may submit
14 to the Secretary a preliminary request for consideration
15 under this section.

16 (b) CONTENTS.—A preliminary request for consider-
17 ation submitted under this section shall include—

18 (1) a description of the proposed University
19 Technology Development Program or University-In-
20 dustry Technology Partnership and the ways that it
21 will further the goals described in section 3(c);

22 (2) an estimate of the amount and nature of
23 Federal assistance that will be required in the imple-
24 mentation of the proposed University Technology

1 Development Program or University-Industry Tech-
2 nology Partnership; and

3 (3) any request for assistance under section 6,
4 along with an explanation of the reasons for the
5 need for such assistance and the estimated cost of
6 completing an application under section 7 or 8.

7 (c) APPROVAL.—The Secretary shall approve prelimi-
8 nary requests for consideration that the Secretary deter-
9 mines show that the proposal has substantial potential to
10 meet the selection criteria described in section 10. As part
11 of such approval, the Secretary shall indicate the amount
12 of assistance under section 6 that will be available to the
13 applicant.

14 **SEC. 6. APPLICATION ASSISTANCE.**

15 To assist an applicant in conducting research, stud-
16 ies, business plans, models, and other technical work, as
17 requested under section 5(b)(3) and necessary for the de-
18 velopment of an application required under section 7 or
19 8, the Secretary, to the extent appropriations are available
20 for such purpose, shall provide—

21 (1) financial assistance, through grants, loans,
22 or loan guarantees in an amount not to exceed
23 \$250,000 per application; and

24 (2) technical and other forms of assistance de-
25 termined necessary by the Secretary.

1 Funding under paragraph (1) of this section shall not ex-
2 ceed 50 percent of the amount necessary for the develop-
3 ment of such application. After the first year that prelimi-
4 nary requests for consideration are submitted under sec-
5 tion 5, not more than 20 percent of the funds appropriated
6 for carrying out this Act each fiscal year shall be available
7 for assistance under this section.

8 **SEC. 7. UNIVERSITY TECHNOLOGY DEVELOPMENT PRO-**
9 **GRAM APPLICATION.**

10 (a) SUBMITTAL.—A university or universities seeking
11 to create a University Technology Development Program
12 whose preliminary request for consideration is approved
13 by the Secretary under section 5(c) may develop an appli-
14 cation for submittal to the Secretary under this section.

15 (b) CONTENTS.—An application submitted under this
16 section shall set forth the information required by regula-
17 tions issued under section 4(1), and shall include, at a
18 minimum, the following:

19 (1) A detailed plan setting out the nature and
20 goals of the proposed University Technology Devel-
21 opment Program including, to the extent possible,
22 the differences between the proposed program and
23 existing technology transfer programs, and expected
24 returns on investment for each of the participants or
25 investors.

1 (2) The location or locations at which the ac-
2 tivities of the proposed University Technology Devel-
3 opment Program will be undertaken, and a review of
4 the anticipated economic and social benefits to the
5 community of these proposed activities.

6 (3) A review of the expected systems integra-
7 tion and coordinated activities that will be employed
8 for achieving the goals of the University Technology
9 Development Program.

10 (4) A complete explanation of how the activities
11 of the proposed University Technology Development
12 Program meet the selection criteria described in sec-
13 tion 10.

14 (5) A full description of all agreements entered
15 into and expected to be entered into between the
16 participants for carrying out the University Tech-
17 nology Development Program, including agreements
18 relating to capital and other contributions, patent
19 rights, copyrights, and royalty and licensing pay-
20 ments.

21 (6) An explanation of the specific nature of
22 Federal financial or technical assistance under sec-
23 tion 12 that the University Technology Development
24 Program is seeking, and justification for this re-
25 quest.

1 (7) A full description of the nature and dura-
2 tion of the contributions that each of the partici-
3 pants has agreed to contribute to the University
4 Technology Development Program.

5 **SEC. 8. PARTNERSHIP CONFERENCE APPLICATION.**

6 (a) SUBMITTAL.—A party or parties seeking to create
7 a University-Industry Technology Partnership whose pre-
8 liminary request for consideration is approved by the Sec-
9 retary under section 5(c) may form a Partnership Con-
10 ference for the development of an application for submittal
11 to the Secretary under this section.

12 (b) PARTICIPATION REQUIREMENT.—An application
13 under this section shall be developed by a Partnership
14 Conference convened for such purpose, which shall consist
15 of, at a minimum, the following:

16 (1) The individual faculty members whose re-
17 search is to be developed and commercialized by the
18 University-Industry Technology Partnership, or a
19 fully informed representative of such faculty mem-
20 bers.

21 (2) The Governor, or the Governor's designee,
22 of the State or States in which the University-Indus-
23 try Technology Partnership is to be located.

24 (3) State agencies, in any State in which the
25 University-Industry Technology Partnership is to be

1 located, that are charged with developing or carrying
2 out technology transfer programs or economic devel-
3 opment programs and which the Governor of such
4 State determines should participate in the Partner-
5 ship Conference.

6 (4) A representative from any local government
7 in whose jurisdiction the University-Industry Tech-
8 nology Partnership is to be located.

9 (5) A representative of any university whose
10 faculty member or members are to participate in the
11 University-Industry Technology Partnership.

12 (6) Representatives of any private enterprise
13 who will be participating in the University-Industry
14 Technology Partnership.

15 (c) PARTICIPANT APPROVAL REQUIREMENT.—An
16 application may not be submitted under this section with-
17 out the approval of each of the participants described in
18 subsection (b). In the case of participants described in
19 paragraph (1) of that subsection, approval by the individ-
20 ual faculty members, rather than their representatives, is
21 required.

22 (d) CONTENTS.—An application submitted under this
23 section shall set forth the information required by regula-
24 tions issued under section 4(1), which shall include, at a
25 minimum, the following:

1 (1) A detailed plan setting out the technical
2 and business goals of the University-Industry Tech-
3 nology Partnership and the means by which the par-
4 ticipants will achieve these goals, including, to the
5 extent possible, the expected returns on investment
6 of each of the participants. These plans shall include
7 a business plan for each specific business venture in-
8 cluded in the goals of the University-Industry Tech-
9 nology Partnership. Applications proposing multi-
10 disciplinary or multitiered activities from which spe-
11 cific business plans cannot yet be developed fully
12 shall set forth, to the extent possible, the anticipated
13 areas of economic activity that will benefit from the
14 research and development activities of the Univer-
15 sity-Industry Technology Partnership.

16 (2) The location or locations at which the ac-
17 tivities of the proposed University-Industry Tech-
18 nology Partnership will be undertaken, and a review
19 of the anticipated economic and social benefits to the
20 community of these proposed activities.

21 (3) A review of the expected systems integra-
22 tion and coordinated activities that will be employed
23 for achieving the goals of the University-Industry
24 Technology Partnership.

1 (4) A complete explanation of how the activities
2 of the proposed University-Industry Technology
3 Partnership meet the selection criteria described in
4 section 10.

5 (5) A full description of all agreements entered
6 into and expected to be entered into between the
7 participants for carrying out the University-Industry
8 Technology Partnership, including agreements relat-
9 ing to capital and other contributions, patent rights,
10 copyrights, and royalty and licensing payments.

11 (6) An explanation of the specific nature of
12 Federal financial or technical assistance under sec-
13 tion 12 that the University-Industry Technology
14 Partnership is seeking, and justification for this re-
15 quest.

16 (7) A full description of the nature and dura-
17 tion of the contributions that each of the partici-
18 pants in the Partnership Conference has agreed to
19 contribute to the University-Industry Technology
20 Partnership.

21 **SEC. 9. ADVISORY PANEL.**

22 (a) MEMBERSHIP.—(1) There shall be established an
23 advisory panel whose membership shall include—

24 (A) the Secretary of Labor;

1 (B) the Director of the National Institutes of
2 Health;

3 (C) the Director of the National Science Foun-
4 dation;

5 (D) the Director of the National Institute of
6 Standards and Technology;

7 (E) the Director of the Advanced Research
8 Projects Agency; and

9 (F) the Director of the National Economic
10 Council.

11 (2) In addition, the President shall invite one rep-
12 resentative each of—

13 (A) the National Academy of Sciences;

14 (B) the National Academy of Engineering; and

15 (C) the Institute of Medicine,

16 to serve on the advisory panel.

17 (3) In addition, the President shall appoint—

18 (A) a representative of the business community;

19 (B) a representative of higher education; and

20 (C) a representative of organized labor,

21 to the advisory panel, on the basis of each individual's ex-
22 pertise and accomplishments relevant to carrying out the
23 functions of the advisory panel, and each member ap-
24 pointed under this paragraph shall be appointed to a term
25 of 2 years.

1 (b) FUNCTIONS.—The advisory panel established
2 under this section shall by majority vote annually rec-
3 ommend to the Secretary, from among the applications
4 submitted under sections 7 and 8, no fewer than 25 and
5 no more than 50 meritorious proposals, and shall assist
6 the Secretary in undertaking the study required under sec-
7 tion 17.

8 (c) CONFLICT OF INTEREST.—If a member of the ad-
9 visory panel has a financial interest in or is otherwise af-
10 filiated with any participant of a proposed University
11 Technology Development Program or University-Industry
12 Technology Partnership for which an application is sub-
13 mitted under this Act, that member shall not participate
14 in the assessment by the advisory panel of such applica-
15 tion.

16 **SEC. 10. SELECTION CRITERIA.**

17 (a) AREAS OF REVIEW.—Recommendations by the
18 advisory panel under section 9(b), and selections by the
19 Secretary under section 11, shall be made on the basis
20 of a competitive assessment as to which applications sub-
21 mitted best further the goals described in section 3(c), in-
22 cluding consideration of—

23 (1) the diversity of the proposals submitted in
24 terms of size, cost, complexity, duration, and num-
25 ber of participants;

1 (2) the relationship of the goals of a University
2 Technology Development Program or a University-
3 Industry Technology Partnership to the development
4 of technologies and processes deemed critical by the
5 Secretary, as reported annually to the Congress by
6 the Secretary in accordance with section 603(d) of
7 the National Science and Technology Policy, Organi-
8 zation, and Priorities Act of 1976;

9 (3) the likelihood that the goals stated in the
10 application can be attained;

11 (4) whether the expected level of risk and re-
12 turn on investment to the participants make it un-
13 likely that the proposed activities would be under-
14 taken without the incentives provided by selection as
15 a University Technology Development Program or a
16 University-Industry Technology Partnership;

17 (5) the impact of a proposed University Tech-
18 nology Development Program or a proposed Univer-
19 sity-Industry Technology Partnership on reaching
20 articulated long-term economic and social needs of
21 the community in which the participating university
22 or universities, or University-Industry Technology
23 Partnership is to be located;

24 (6) whether the proposed University Technology
25 Development Program or proposed University-Indus-

1 try Technology Partnership will strengthen and pro-
2 mote the research capabilities of the participating
3 university or universities;

4 (7) whether the previous activities of the par-
5 ticipants of a proposed University Technology Devel-
6 opment Program or a proposed University-Industry
7 Technology Partnership, including existing tech-
8 nology transfer and development programs operated
9 by State or local governments or universities, dem-
10 onstrate sufficient interest, activity, and ability in
11 technology innovation and commercialization;

12 (8) in the case of a proposed University-Indus-
13 try Technology Partnership, the potential relevance
14 of such partnership to the growth and competitive-
15 ness of multiple sectors of the Nation's economy;
16 and

17 (9) in the case of a proposed University-Indus-
18 try Technology Partnership, whether the partici-
19 pants of the proposed partnership have dem-
20 onstrated a sufficient level of cooperation, and of
21 commitment to the University-Industry Technology
22 Partnership, necessary for its success, including con-
23 tributions for the provision of adequate staffing, fa-
24 cilities, and equipment, contribution of private
25 funds, and government support, including State and

1 local government loans, loan guarantees, or tax and
2 regulatory relief.

3 (b) SPECIAL CONSIDERATION.—The advisory panel
4 and the Secretary shall give special consideration and pri-
5 ority to applications—

6 (1) that would enhance the ability of small busi-
7 nesses to incorporate technological developments;

8 (2) that would assist disadvantaged urban areas
9 and communities impacted by reductions in Federal
10 defense spending through the creation of new oppor-
11 tunities for employment and worker skill upgrading
12 in those communities;

13 (3) that would create or enhance an applied re-
14 search facility at a university;

15 (4) that would target assistance to universities
16 with a history of substantial Federal research fund-
17 ing and experience; and

18 (5) if the applicant, or one of the participants
19 in a group applicant, is a university that has pre-
20 viously submitted a proposal that was selected, or
21 has been one of the participants in a group that sub-
22 mitted a proposal that was selected, as a University
23 Technology Development Program or as a Univer-
24 sity-Industry Technology Partnership.

1 (c) EQUAL SELECTION.—To the extent possible, tak-
2 ing into consideration the number and nature of applica-
3 tions received under sections 7 and 8, the Secretary and
4 the advisory panel shall attempt to select an equal number
5 of University Technology Development Programs and Uni-
6 versity-Industry Technology Partnerships each year.

7 **SEC. 11. SELECTION.**

8 (a) SELECTION.—The Secretary shall annually select
9 no fewer than 10 but no more than 25 meritorious propos-
10 als, from among those recommended by the advisory panel
11 under section 9(b), as University Technology Development
12 Programs or University-Industry Technology Partnerships
13 eligible to receive assistance under section 12.

14 (b) EXPLANATION BY SECRETARY.—Each applicant
15 whose proposal is recommended by the advisory panel
16 under section 9(b) but not selected under this section may
17 request an explanation from the Secretary for the decision
18 not to select its proposal. The Secretary shall provide such
19 applicant a description of changes to the application that
20 the Secretary would consider significant during any recon-
21 sideration of such application. Applicants may resubmit
22 an application, with or without modification, in any subse-
23 quent year in which the Secretary is authorized to select
24 University Technology Development Programs and Uni-
25 versity-Industry Technology Partnerships.

1 **SEC. 12. DIRECT ASSISTANCE.**

2 The Secretary shall, to the extent appropriations are
3 available for such purpose, provide financial assistance, in
4 the form of a grant, loan, or loan guarantee, and appro-
5 priate technical assistance, to University Technology De-
6 velopment Programs and to University-Industry Tech-
7 nology Partnerships selected under section 11. Assistance
8 under this section shall not exceed 50 percent of the total
9 cost of the activities proposed, and no applicant shall re-
10 ceive more than \$5,000,000 under this section.

11 **SEC. 13. REQUIRED CONTRIBUTION.**

12 (a) PRIVATE ENTERPRISES.—The private business
13 entities participating in a University-Industry Technology
14 Partnership shall contribute a minimum of 50 percent of
15 the capital requirements of the University-Industry Tech-
16 nology Partnership. Such contribution may be met
17 through approved financing mechanisms, as defined by the
18 Secretary by regulation, including available private and
19 public equity and debt financing and State and Federal
20 small business assistance programs.

21 (b) UNIVERSITIES.—The university or universities
22 participating in a University Technology Development
23 Program shall contribute minimum of 25 percent of the
24 capital requirements of the program. Such contribution
25 may be met through approved financing mechanisms, as
26 defined by the Secretary by regulation.

1 **SEC. 14. TECHNOLOGY PARTNERSHIP ACCOUNTS; ALTER-**
2 **NATIVE INVESTMENT TAX CREDIT.**

3 (a) TECHNOLOGY PARTNERSHIP ACCOUNTS.—

4 (1) IN GENERAL.—Chapter 77 of the Internal
5 Revenue Code of 1986 (relating to miscellaneous
6 provisions) is amended by adding at the end thereof
7 the following new section:

8 **“SEC. 7524. TECHNOLOGY PARTNERSHIP ACCOUNTS.**

9 “(a) AGREEMENT RULES.—Any University-Industry
10 Technology Partnership selected under section 11(a) of
11 the University-Industry Technology Development Act may
12 enter into an agreement with the Secretary under, and as
13 provided in, this section to establish a technology partner-
14 ship account (hereafter in this section referred to as the
15 ‘account’). Any agreement entered into under this section
16 shall be for the purpose of accomplishing the goals of such
17 partnership in accordance with the actions proposed by
18 such partnership in its application under section 8 of the
19 University-Industry Technology Development Act, and
20 shall provide for the deposit in the account of the amounts
21 agreed upon as necessary or appropriate to provide for
22 qualified withdrawals under subsection (f). The deposits
23 in the account, and all withdrawals from the account,
24 whether qualified or nonqualified, shall be subject to such
25 conditions and requirements as the Secretary may by reg-
26 ulations prescribe or as set forth in such agreement.

1 “(b) CEILING ON DEPOSITS.—

2 “(1) LIMIT DURING FIRST 5 YEARS.—The
3 amount deposited under subsection (a) in the ac-
4 count for any of the first 5 taxable years following
5 the taxable year in which an agreement was entered
6 into shall not exceed the average of the sum of the
7 following amounts for the 5 taxable years preceding
8 the taxable year for which the determination is being
9 made:

10 “(A) The amount allowable as a deduction
11 under section 167 for such taxable year.

12 “(B) The net proceeds from—

13 “(i) the sale or other disposition of
14 any property of a character subject to the
15 allowance for depreciation, or

16 “(ii) insurance or indemnity attrib-
17 utable to any such property.

18 “(C) The receipts from the investment or
19 reinvestment of amounts held in such account.

20 “(2) LIMIT AFTER 5 YEARS.—The amount de-
21 posited under subsection (a) in the account for any
22 taxable year after such 5th taxable year shall not ex-
23 ceed the amount specified in paragraph (1)(C).

24 “(c) REQUIREMENTS AS TO INVESTMENTS.—

1 “(1) IN GENERAL.—Amounts in any account
2 established under this section shall be kept in the
3 depository or depositories specified in the agreement
4 and shall be subject to such trustee and other fidu-
5 ciary requirements as may be specified by the Sec-
6 retary.

7 “(2) LIMITATION OF ACCOUNT INVEST-
8 MENTS.—Amounts in an account may be invested
9 only in interest-bearing securities approved by the
10 Secretary; except that, if the Secretary consents
11 thereto, an agreed percentage (not in excess of 60
12 percent) of the assets of the account may be invested
13 in the stock of domestic corporations. Such stock
14 must be currently fully listed and registered on an
15 exchange registered with the Securities and Ex-
16 change Commission or a national securities exchange
17 and must be stock which would be acquired by pru-
18 dent men of discretion and intelligence in such mat-
19 ters who are seeking a reasonable income and the
20 preservation of capital. If at any time the fair mar-
21 ket value of the stock in the account is more than
22 the agreed percentage of the assets in the account,
23 any subsequent investment of withdrawal from the
24 account, shall be made in such a way as to tend to
25 restore the account to a situation in which the fair

1 market value of the stock does not exceed such
2 agreed percentage.

3 “(3) INVESTMENT IN CERTAIN PREFERRED
4 STOCK PERMITTED.—For purposes of this sub-
5 section, if the common stock of a corporation meets
6 the requirements of this subsection and if the pre-
7 ferred stock of such corporation would meet such re-
8 quirements but for the fact that it cannot be listed
9 and registered as required because it is nonvoting
10 stock, such preferred stock shall be treated as meet-
11 ing the requirements of this subsection.

12 “(d) NONTAXABILITY OF DEPOSITS.—

13 “(1) IN GENERAL.—For purposes of this title—

14 “(A) gain from a transaction referred to in
15 subsection (b)(1)(B) shall not be taken into ac-
16 count if an amount equal to the net proceeds
17 from such transaction is deposited in the ac-
18 count,

19 “(B) the earnings (including gains and
20 losses) from the investment and reinvestment of
21 amounts held in the account shall not be taken
22 into account,

23 “(C) the earnings and profits of any cor-
24 poration (within the meaning of section 316)

1 shall be determined without regard to this sec-
2 tion and section 7518, and

3 “(D) in applying the tax imposed by sec-
4 tion 531 (relating to the accumulated earnings
5 tax), amounts while held in the account shall
6 not be taken into account.

7 “(2) ONLY QUALIFIED DEPOSITS ELIGIBLE FOR
8 TREATMENT.—Paragraph (1) shall apply with re-
9 spect to any amount only if such amount is depos-
10 ited in the account pursuant to the agreement and
11 not later than the time provided in regulations.

12 “(e) ESTABLISHMENT OF SUBACCOUNTS.—

13 “(1) IN GENERAL.—Within the account estab-
14 lished pursuant to this section 3 subaccounts shall
15 be maintained—

16 “(A) the capital subaccount,

17 “(B) the capital gain subaccount, and

18 “(C) the ordinary income subaccount.

19 “(2) CAPITAL SUBACCOUNT.—The capital sub-
20 account shall consist of—

21 “(A) amounts referred to in subsection
22 (b)(1)(A),

23 “(B) amounts referred to in subsection
24 (b)(1)(B) other than that portion thereof which

1 represents gain not taken into account by rea-
2 son of subsection (d)(1)(A),

3 “(C) the percentage applicable under sec-
4 tion 243(a)(1) of any dividend received by the
5 account with respect to which the person main-
6 taining the account would (but for subsection
7 (d)(1)(B)) be allowed a deduction under section
8 243, and

9 “(D) interest income exempt from taxation
10 under section 103.

11 “(3) CAPITAL GAIN SUBACCOUNT.—The capital
12 gain subaccount shall consist of—

13 “(A) amounts representing capital gains on
14 assets held for more than 1 year and referred
15 to in subsection (b)(1)(B) or (b)(1)(C), reduced
16 by

17 “(B) amounts representing capital losses
18 on assets held in the account for more than 1
19 year.

20 “(4) ORDINARY INCOME SUBACCOUNT.—The
21 ordinary income subaccount shall consist of—

22 “(A)(i) amounts representing capital gains
23 on assets held for 1 year or less and referred
24 to in subsection (b)(1)(B) or (b)(1)(C), reduced
25 by

1 “(ii) amounts representing capital losses
2 on assets held in the account for 1 year or less,

3 “(B) interest (not including any tax-ex-
4 empt interest referred to in paragraph (2)(D))
5 and other ordinary income (not including any
6 dividend referred to in subparagraph (D) of this
7 paragraph) received on assets held in the ac-
8 count,

9 “(C) ordinary income from a transaction
10 described in subsection (b)(1)(B), and

11 “(D) the portion of any dividend referred
12 to in paragraph (2)(C) not taken into account
13 under such paragraph.

14 “(5) CAPITAL LOSSES ONLY ALLOWED TO OFF-
15 SET CERTAIN GAINS.—Except on termination of an
16 account, capital losses referred to in paragraph
17 (3)(B) or in paragraph (4)(A)(ii) shall be allowed
18 only as an offset to gains referred to in paragraph
19 (3)(A) or (4)(A)(i), respective.

20 “(f) PURPOSES OF QUALIFIED WITHDRAWALS.—

21 “(1) IN GENERAL.—A qualified withdrawal
22 from the account is one made in accordance with the
23 terms of the agreement under subsection (a).

24 “(2) PENALTY FOR FAILING TO FULFILL ANY
25 SUBSTANTIAL OBLIGATION.—Under joint regula-

1 tions, if the Secretary determines that any substan-
2 tial obligation under any agreement is not being ful-
3 filled, the Secretary may, after notice and oppor-
4 tunity for hearing to the person maintaining the ac-
5 count, treat the entire account or any portion there-
6 of as an amount withdrawn from the account in a
7 nonqualified withdrawal.

8 “(g) TAX TREATMENT OF QUALIFIED WITHDRAW-
9 ALS.—

10 “(1) IN GENERAL.—Any qualified withdrawal
11 from an account shall be treated—

12 “(A) first as made out of the capital sub-
13 account,

14 “(B) second as made out of the capital
15 gain subaccount, and

16 “(C) third as made out of the ordinary in-
17 come subaccount.

18 “(2) ADJUSTMENT TO BASIS WHERE WITH-
19 DRAWAL FROM ORDINARY INCOME SUBACCOUNT.—If
20 any portion of a qualified withdrawal for plant and
21 equipment is made out of the ordinary income sub-
22 account, the basis of such plant and equipment shall
23 be reduced by an amount equal to such portion.

24 “(3) ADJUSTMENT TO BASIS WHERE WITH-
25 DRAWAL FROM CAPITAL GAIN SUBACCOUNT.—If any

1 portion of a qualified withdrawal for plant and
2 equipment is made out of the capital gain sub-
3 account, the basis of such plant and equipment shall
4 be reduced by an amount equal to such portion.

5 “(4) ADJUSTMENT TO BASIS WHERE WITH-
6 DRAWAL PAYS PRINCIPAL ON DEBT.—If any portion
7 of a qualified withdrawal to pay the principal on any
8 indebtedness is made out of the ordinary income
9 subaccount or the capital gain subaccount, then an
10 amount equal to the aggregate reduction which
11 would be required by paragraphs (2) and (3) if such
12 withdrawal were a qualified withdrawal for a pur-
13 pose described in such paragraphs shall be applied,
14 in the order provided in joint regulations, to reduce
15 the basis of plant and equipment owned by the per-
16 son maintaining the account. Any amount of a
17 withdrawal remaining after the application of the
18 preceding sentence shall be treated as a nonqualified
19 withdrawal.

20 “(5) ORDINARY INCOME RECAPTURE OF BASIS
21 REDUCTION.—If any property the basis of which was
22 reduced under paragraph (2), (3), or (4) is disposed
23 of, any gain realized on such disposition, to the ex-
24 tent it does not exceed the aggregate reduction in
25 the basis of such property under such paragraphs,

1 shall be treated as an amount referred to in sub-
2 section (h)(3)(A) which was withdrawn on the date
3 of such disposition. Subject to such conditions and
4 requirements as may be provided in joint regula-
5 tions, the preceding sentence shall not apply to a
6 disposition where there is a redeposit in an amount
7 determined under joint regulations which will, inso-
8 far as practicable, restore the account to the position
9 such account was in before the withdrawal.

10 “(h) TAX TREATMENT OF NONQUALIFIED WITH-
11 DRAWALS.—

12 “(1) IN GENERAL.—Except as provided in sub-
13 section (i), any withdrawal from an account which is
14 not a qualified withdrawal shall be treated as a non-
15 qualified withdrawal.

16 “(2) ORDERING RULE.—Any nonqualified with-
17 drawal from an account shall be treated—

18 “(A) first as made out of the ordinary in-
19 come subaccount,

20 “(B) second as made out of the capital
21 gain subaccount, and

22 “(C) third as made out of the capital sub-
23 account.

24 For purposes of this section, items withdrawn from
25 any subaccount shall be treated as withdrawn on a

1 first-in-first-out basis; except that (i) any non-
2 qualified withdrawal for research, development, and
3 design expenses incident to new and advanced plant
4 and equipment, and (ii) any amount treated as a
5 nonqualified withdrawal under the second sentence
6 of subsection (g)(4), shall be treated as withdrawn
7 on a last-in-first-out basis.

8 “(3) OPERATING RULES.—For purposes of this
9 title—

10 “(A) any amount referred to in paragraph
11 (2)(A) shall be included in income for the tax-
12 able year in which the withdrawal is made as an
13 item of ordinary income,

14 “(B) any amount referred to in paragraph
15 (2)(B) shall be included in income for the tax-
16 able year in which the withdrawal is made as an
17 item of gain realized during such year from the
18 disposition of an asset held for more than 1
19 year, and

20 “(C) for the period on or before the last
21 date prescribed for payment of tax for the tax-
22 able year in which such withdrawal is made—

23 “(i) no interest shall be payable under
24 section 6601 and no addition to the tax
25 shall be payable under section 6651,

1 “(ii) interest on the amount of the ad-
2 ditional tax attributable to any item re-
3 ferred to in subparagraph (A) or (B) shall
4 be paid at the applicable rate (as defined
5 in paragraph (4)) from the last date
6 prescribed for payment of the tax for the
7 taxable year for which such item was de-
8 posited in the account, and

9 “(iii) no interest shall be payable on
10 amounts referred to in clauses (i) and (ii)
11 of paragraph (2).

12 “(4) APPLICABLE RATE.—For purposes of
13 paragraph (3)(C)(ii), the applicable rate of interest
14 for any nonqualified withdrawal shall be the rate es-
15 tablished in section 6621(a)(2).

16 “(5) AMOUNT NOT WITHDRAWN FROM ACCOUNT
17 AFTER 12 YEARS FROM DATE OF AGREEMENT TAXED
18 AS NONQUALIFIED WITHDRAWAL.—

19 “(A) IN GENERAL.—The applicable per-
20 centage of any amount which remains in an ac-
21 count at the close of the 10th, 11th, or 12th
22 taxable year following the taxable year in which
23 an agreement was entered into shall be treated
24 as a nonqualified withdrawal in accordance with
25 the following table:

“If the amount remains in the account at the close of the:	The applicable percentage is:
10th taxable year	20 percent
11th taxable year	60 percent
12th taxable year	100 percent

1 “(B) EARNINGS TREATED AS DEPOSITS.—
2 The earnings of any account for any taxable
3 year (other than net gains) shall be treated for
4 purposes of this paragraph as an amount re-
5 maining in the account for such taxable year.

6 “(C) AMOUNTS COMMITTED TREATED AS
7 WITHDRAWN.—For purposes of subparagraph
8 (A), an amount shall not be treated as remain-
9 ing in an account at the close of any taxable
10 year to the extent there is a binding contract at
11 the close of such year for a qualified withdrawal
12 of such amount with respect to an identified
13 item for which such withdrawal may be made.

14 “(D) AUTHORITY TO TREAT EXCESS
15 FUNDS AS WITHDRAWN.—If the Secretary de-
16 termines that the balance in any account ex-
17 ceeds the amount which is appropriate to meet
18 the account’s program objectives, the amount of
19 such excess shall be treated as a nonqualified
20 withdrawal under subparagraph (A) unless the
21 person maintaining the account develops appro-
22 priate program objectives within 3 years to dis-
23 sipate such excess.

1 “(6) NONQUALIFIED WITHDRAWALS TAXED AT
2 HIGHEST MARGINAL RATE.—

3 “(A) IN GENERAL.—In the case of any
4 taxable year for which there is a nonqualified
5 withdrawal (including any amount so treated
6 under paragraph (5)), the tax imposed by chap-
7 ter 1 shall be determined—

8 “(i) by excluding such withdrawal
9 from gross income, and

10 “(ii) by increasing the tax imposed by
11 chapter 1 by the product of the amount of
12 such withdrawal and the highest rate of
13 tax specified in section 11.

14 With respect to the portion of any nonqualified
15 withdrawal made out of the capital gain sub-
16 account during a taxable year to which section
17 1201(a) applies, the rate of tax taken into ac-
18 count under the preceding sentence shall not
19 exceed 34 percent.

20 “(B) TAX BENEFIT RULE.—If any portion
21 of a nonqualified withdrawal is properly attrib-
22 utable to deposits (other than earnings on de-
23 posits) made by the taxpayer in any taxable
24 year which did not reduce the taxpayer’s liabil-
25 ity for tax under chapter 1 for any taxable year

1 preceding the taxable year in which such with-
2 drawal occurs—

3 “(i) such portion shall not be taken
4 into account under subparagraph (A), and

5 “(ii) an amount equal to such portion
6 shall be treated as allowed as a deduction
7 under section 172 for the taxable year in
8 which such withdrawal occurs.

9 “(C) COORDINATION WITH DEDUCTION
10 FOR NET OPERATING LOSSES.—Any non-
11 qualified withdrawal excluded from gross in-
12 come under subparagraph (A) shall be excluded
13 in determining taxable income under section
14 172(b)(2).

15 “(i) CERTAIN CORPORATE REORGANIZATIONS.—
16 Under joint regulations, transfer of an account from one
17 person to another person in a transaction to which section
18 381 applies may be treated as if such transaction did not
19 constitute a nonqualified withdrawal.

20 “(j) RECORDS; REPORTS; CHANGES IN REGULA-
21 TIONS.—

22 “(1) IN GENERAL.—Each person maintaining
23 an account under this section shall keep such
24 records and shall make such reports as the Sec-
25 retary shall require. The Secretary and the Sec-

1 retary of Commerce shall jointly prescribe all rules
2 and regulations, not inconsistent with the foregoing
3 provisions of this section, as may be necessary or ap-
4 propriate to the determination of tax liability under
5 this section. If, after an agreement has been entered
6 into under this section, a change is made either in
7 the joint regulations or in the regulations prescribed
8 by the Secretary under this section which could have
9 a substantial effect on the rights or obligations of
10 any person maintaining an account under this sec-
11 tion, such person may terminate such agreement.

12 “(2) JOINT REGULATIONS.—For purposes of
13 this section, the term ‘joint regulations’ means the
14 regulations prescribed under this subsection.

15 “(k) DEPARTMENTAL REPORTS AND CERTIFI-
16 CATION.—

17 “(1) IN GENERAL.—For each calendar year, the
18 Secretary shall provide the Secretary of Commerce,
19 within 120 days after the close of such calendar
20 year, a written report with respect to the accounts
21 established under this section.

22 “(2) CONTENT OF REPORTS.—Each report shall
23 set forth the name and taxpayer identification num-
24 ber of each person—

1 “(A) establishing an account during such
2 calendar year;

3 “(B) maintaining an account as of the last
4 day of such calendar year;

5 “(C) terminating an account during such
6 calendar year;

7 “(D) making any withdrawal from or de-
8 posit into (and the amounts thereof) an account
9 during such calendar year; or

10 “(E) with respect to which a determination
11 has been made during such calendar year that
12 such person has failed to fulfill a substantial
13 obligation under any account agreement to
14 which such person is a party.”

15 (2) MINIMUM TAX TREATMENT.—Section 56(c)
16 of the Internal Revenue Code of 1986 (relating to
17 adjustments applicable to corporations) is amended
18 by adding at the end thereof the following new para-
19 graph:

20 “(4) TECHNOLOGY PARTNERSHIP ACCOUNTS.—
21 In the case of a technology partnership account es-
22 tablished under section 7524—

23 “(A) subparagraphs (A) and (B) of section
24 7524(d)(1) shall not apply, and

1 “(B) no reduction in basis shall be made
2 under subsection (g) with respect to the with-
3 drawal from the account of any amount to
4 which subparagraph (A) applies.”

5 (3) CLERICAL AMENDMENT.—The table of sec-
6 tions for chapter 77 of the Internal Revenue Code
7 of 1986 is amended by adding at the end thereof the
8 following new item:

 “Sec. 7524. Technology partnership accounts.”

9 (4) EFFECTIVE DATE.—The amendments made
10 by this subsection shall apply to taxable years begin-
11 ning after the date of the enactment of this Act.

12 (b) ALTERNATIVE INVESTMENT TAX CREDIT.—

13 (1) ALLOWANCE OF CREDIT.—Section 46 of
14 the Internal Revenue Code of 1986 (relating to
15 amount of investment credit) is amended by striking
16 “and” at the end of paragraph (2), by striking the
17 period at the end of paragraph (3) and inserting “,
18 and”, and by adding at the end thereof the following
19 new paragraph:

20 “(4) in the case of a University-Industry Tech-
21 nology Partnership selected under section 11(a) of
22 the University-Industry Technology Development
23 Act which does not have a technology partnership
24 account (within the meaning of section 7524) for the

1 taxable year or any prior taxable year, the tech-
2 nology partnership credit.”

3 (2) AMOUNT OF CREDIT.—Section 48 of such
4 Code is amended by adding at the end thereof the
5 following new subsection:

6 “(c) TECHNOLOGY PARTNERSHIP CREDIT.—

7 “(1) GENERAL RULE.—For purposes of section
8 46, the technology partnership credit for the taxable
9 year is an amount equal to 20 percent of the amount
10 paid or incurred during such taxable year for a pur-
11 pose for which a qualified withdrawal would be per-
12 mitted by the taxpayer from a technology partner-
13 ship account (within the meaning of section 7524) if
14 the taxpayer had such an account. Such credit shall
15 be in addition to any other credit allowable under
16 this subpart.

17 “(2) SPECIAL RULE.—If any credit is deter-
18 mined under subsection (a) for any amount which is
19 includible in the basis of any property, such property
20 shall be treated as investment credit property for
21 purposes of this subpart.”

22 (3) TECHNICAL AMENDMENTS.—

23 (A) Clause (ii) of section 49(a)(1)(C) of
24 such Code is amended by inserting “or property
25 with respect to which a technology partnership

1 credit is allowed under section 48(c)” after “en-
2 energy property”.

3 (B) Paragraph (5) of section 50(a) of such
4 Code is amended by adding at the end thereof
5 the following new subparagraph:

6 “(D) SPECIAL RULES FOR CERTAIN PROP-
7 ERTY.—In the case of property with respect to
8 which a technology partnership credit is allowed
9 under section 48(c) and which is 3-year prop-
10 erty (within the meaning of section 168(e))—

11 “(i) the percentage set forth in clause
12 (ii) of the table contained in paragraph
13 (1)(B) shall be 66 percent,

14 “(ii) the percentage set forth in clause
15 (iii) of such table shall be 33 percent, and

16 “(iii) clauses (iv) and (v) of such table
17 shall not apply.”

18 (C) The section heading of section 48 of
19 such Code is amended by inserting before the
20 period “; **TECHNOLOGY PARTNERSHIP**
21 **CREDIT**”.

22 (D) The table of sections for subpart E of
23 part IV of subchapter A of chapter 1 of such
24 Code is amended by inserting before the period

1 in the item relating to section 48 “; technology
2 partnership credit”.

3 (4) EFFECTIVE DATE.—The amendments made
4 by this subsection shall apply to taxable years begin-
5 ning after the date of the enactment of this Act.

6 **SEC. 15. CAPITAL GAINS EXCLUSION.**

7 (a) IN GENERAL.—Part III of subchapter B of chap-
8 ter 1 of the Internal Revenue Code of 1986 is amended
9 by redesignating section 137 as section 138 and by insert-
10 ing after section 136 the following new section:

11 **“SEC. 137. EXCLUSION FOR GAIN FROM TECHNOLOGY PRO-**
12 **GRAM INVESTMENTS.**

13 “(a) GENERAL RULE.—Gross income shall not in-
14 clude the applicable percentage of any long-term capital
15 gain recognized on the sale or exchange of a technology
16 program investment held for more than 5 years.

17 “(b) APPLICABLE PERCENTAGE.—For purposes of
18 this section—

19 “(1) IN GENERAL.—The term ‘applicable per-
20 centage’ means, with respect to any technology pro-
21 gram investment, the sum of—

22 “(A) 25 percent, plus

23 “(B) 5 percentage points for each full year
24 such investment is held after the 5th year such
25 investment is held.

1 In no event shall the applicable percentage exceed 75
2 percent.

3 “(2) REDUCTION OF EXCLUSION FOR INVEST-
4 MENTS MADE MORE THAN 3 YEARS AFTER ENACT-
5 MENT.—In the case of any technology program in-
6 vestment made during any fiscal year (hereinafter
7 referred to as the ‘acquisition year’) after the third
8 fiscal year beginning after the date of the enactment
9 of this section, the applicable percentage determined
10 under paragraph (1) (without regard to this para-
11 graph) shall be reduced (but not below zero) by the
12 product of 15 percentage points and the number of
13 fiscal years that the acquisition year is after such
14 third fiscal year.

15 “(c) TECHNOLOGY PROGRAM INVESTMENT.—For
16 purposes of this section, the term ‘technology program in-
17 vestment’ means any investment of a type approved by
18 the Secretary of Commerce which provides funding for any
19 University Technology Development Program, or any Uni-
20 versity-Industry Technology Partnership, selected under
21 section 11(a) of the University-Industry Technology De-
22 velopment Act.

23 “(d) CERTAIN TAX-FREE AND OTHER TRANS-
24 FERS.—For purposes of this section—

1 “(1) IN GENERAL.—In the case of a transfer of
2 a technology program investment to which this sub-
3 section applies, the transferee shall be treated as—

4 “(A) having acquired such investment in
5 the same manner as the transferor, and

6 “(B) having held such investment during
7 any continuous period immediately preceding
8 the transfer during which it was held (or treat-
9 ed as held under this subsection) by the trans-
10 feror.

11 “(2) TRANSFERS TO WHICH SUBSECTION AP-
12 PLIES.—This subsection shall apply to any trans-
13 fer—

14 “(A) by gift, or

15 “(B) at death.

16 “(3) CERTAIN RULES MADE APPLICABLE.—
17 Rules similar to the rules of section 1244(d)(2) shall
18 apply for purposes of this section.

19 (b) CLERICAL AMENDMENT.—The table of sections
20 for such part III is amended by striking the last item and
21 inserting the following new items:

 “Sec. 137. Exclusion for gain from technology program invest-
 ments.

 “Sec. 138. Cross references to other Acts.”

22 (c) EFFECTIVE DATE.—The amendments made by
23 this section shall apply to taxable years beginning after
24 the date of the enactment of this Act.

1 **SEC. 16. ANTITRUST EXEMPTION.**

2 (a) COURT ACTIONS.—All cooperative activities and
3 joint ventures in furtherance of the goals of a University
4 Technology Development Program or a University-Indus-
5 try Technology Partnership shall be judged by the rule
6 of reason in any antitrust action brought in Federal or
7 State court. Damages in any such action shall be limited
8 to actual damages and attorneys fees. A private party that
9 brings an antitrust action against a University Technology
10 Development Program or a University-Industry Tech-
11 nology Partnership ruled to be frivolous, unreasonable,
12 without foundation, or in bad faith shall pay the attorneys
13 fees of the accused party.

14 (b) REQUESTED RULING.—A University Technology
15 Development Program or a University-Industry Tech-
16 nology Partnership may seek a ruling by the Secretary
17 that a proposed activity is not a violation of Federal anti-
18 trust laws. The Secretary, in consultation with the Attor-
19 ney General, shall render a ruling within 90 days after
20 such a request.

21 **SEC. 17. STUDY AND REPORT.**

22 (a) STUDY.—The Secretary, in coordination with the
23 advisory panel established under section 9, shall undertake
24 a study of the effectiveness of this Act in furthering the
25 goals described in section 3(c).

1 (b) REPORT.—Not later than 5 years after the date
2 of enactment of this Act, the Secretary shall report to the
3 Congress on the results of such study, including a rec-
4 ommendation of whether the program should be reauthor-
5 ized for an additional period.

6 **SEC. 18. FEDERAL AGENCY COOPERATION.**

7 Federal agencies with responsibilities or expertise in
8 technology related fields shall cooperate with the Secretary
9 in carrying out this Act.

10 **SEC. 19. DEFINITIONS.**

11 For purposes of this Act—

12 (1) the term “Partnership Conference” means a
13 conference described in section 8(b); and

14 (2) the term “Secretary” means the Secretary
15 of Commerce.

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