

103^D CONGRESS
1ST SESSION

H. R. 2369

To amend the Act of March 3, 1863, incorporating the National Academy of Sciences, to authorize the Federal Government to indemnify the Academy against liability for certain pecuniary losses to third persons arising from projects and activities undertaken by the Academy.

IN THE HOUSE OF REPRESENTATIVES

JUNE 10, 1993

Mr. BOUCHER introduced the following bill; which was referred to the Committee on the Judiciary

A BILL

To amend the Act of March 3, 1863, incorporating the National Academy of Sciences, to authorize the Federal Government to indemnify the Academy against liability for certain pecuniary losses to third persons arising from projects and activities undertaken by the Academy.

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. INDEMNIFICATION OF NATIONAL ACADEMY OF**
4 **SCIENCES.**

5 The Act entitled “An Act to Incorporate the National
6 Academy of Sciences”, approved March 3, 1863 (36

1 U.S.C. 251 et seq.), is amended by adding at the end the
2 following new section:

3 **“SEC. 4. INDEMNIFICATION.**

4 “(a) AUTHORIZATION OF INDEMNIFICATION.—

5 “(1) IN GENERAL.—With the approval of a per-
6 son described in paragraph (2), a contract between
7 an Executive agency and the National Academy of
8 Sciences for the undertaking by the Academy of a
9 project or activity on behalf of the agency may pro-
10 vide that the Federal Government will indemnify the
11 Academy against tort liability for any pecuniary loss
12 to a third person arising from the project or activity.

13 “(2) CONTRACT APPROVAL.—The persons who
14 may approve a contractual provision for the indem-
15 nification by the Federal Government of the Acad-
16 emy under the circumstances described in paragraph
17 (1) are, with respect to an Executive agency—

18 “(A) the head of the agency;

19 “(B) the policymaking officer immediately
20 inferior in rank to the head of the agency; and

21 “(C) the policymaking officer immediately
22 inferior in rank to the person referred to in
23 subparagraph (B).

1 “(b) NOTICE AND CONTROL OF CLAIM.—A contract
2 that provides for indemnification pursuant to subsection
3 (a) shall also—

4 “(1) require that, as a prerequisite to the avail-
5 ability of such indemnification, the Academy—

6 “(A) receive a written statement of a claim
7 against it for a pecuniary loss to a third person
8 arising from a project or activity undertaken by
9 the Academy on behalf of the contracting Exec-
10 utive agency; or

11 “(B) be served with a pleading commenc-
12 ing a suit against it for such pecuniary loss;

13 “(2) require that, as a prerequisite to the avail-
14 ability of such indemnification, the Academy—

15 “(A) give written notice to the Attorney
16 General of a claim described in paragraph
17 (1)(A) within the 30-day period beginning on
18 the date of the receipt of the claim; and

19 “(B) give written notice to the Attorney
20 General of a pleading described in paragraph
21 (1)(B) within the 5-day period beginning on the
22 date of the service of the pleading; and

23 “(3) provide for control of or assistance in the
24 defense by the Federal Government, at its election,
25 of any such claim or suit.

1 “(c) CERTIFICATION BY ATTORNEY GENERAL.—

2 “(1) IN GENERAL.—A payment may not be
3 made pursuant to subsection (a) unless the Attorney
4 General certifies that the amount is just and reason-
5 able.

6 “(2) EXCEPTION.—Paragraph (1) shall not
7 apply with respect to a payment for indemnification
8 of the Academy against liability pursuant to a final
9 judgment or other legally binding award of a finder
10 of fact.

11 “(d) DEFINITIONS.—For purposes of this section:

12 “(1) ACADEMY.—The term ‘Academy’ means
13 the National Academy of Sciences.

14 “(2) EXECUTIVE AGENCY.—The term ‘Execu-
15 tive agency’ has the meaning given such term in sec-
16 tion 105 of title 5, United States Code.

17 “(3) TORT LIABILITY.—The term ‘tort liability’
18 means liability arising from an actual or alleged tort
19 and includes amounts necessary to pay—

20 “(A) a final judgment, award, or com-
21 promise settlement;

22 “(B) interest and costs specified in a final
23 judgment, award, or compromise settlement or
24 otherwise authorized by law; and

1 “(C) reasonable expenses of litigation or
2 settlement incurred by the Academy.”.

○