

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.

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

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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