

107TH CONGRESS
1ST SESSION

S. 259

To authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes.

IN THE SENATE OF THE UNITED STATES

FEBRUARY 6, 2001

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

A BILL

To authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, 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 “National Laboratories
5 Partnership Improvement Act of 2001”.

6 **SEC. 2. DEFINITIONS.**

7 For purposes of this Act—

1 (1) the term “Department” means the Depart-
2 ment of Energy;

3 (2) the term “departmental mission” means
4 any of the functions vested in the Secretary of En-
5 ergy by the Department of Energy Organization Act
6 (42 U.S.C. 7101 et seq.) or other law;

7 (3) the term “institution of higher education”
8 has the meaning given such term in section 1201(a)
9 of the Higher Education Act of 1965 (20 U.S.C.
10 1141(a));

11 (4) the term “National Laboratory” means any
12 of the following multi-purpose laboratories owned by
13 the Department of Energy—

14 (A) Argonne National Laboratory;

15 (B) Brookhaven National Laboratory;

16 (C) Idaho National Engineering and Envi-
17 ronmental Laboratory;

18 (D) Lawrence Berkeley National Labora-
19 tory;

20 (E) Lawrence Livermore National Labora-
21 tory;

22 (F) Los Alamos National Laboratory;

23 (G) National Renewable Energy Labora-
24 tory;

25 (H) Oak Ridge National Laboratory;

1 (I) Pacific Northwest National Laboratory;

2 or

3 (J) Sandia National Laboratory;

4 (5) the term “facility” means any of the fol-
5 lowing primarily single purpose entities owned by
6 the Department of Energy—

7 (A) Ames Laboratory;

8 (B) East Tennessee Technology Park;

9 (C) Environmental Measurement Labora-
10 tory;

11 (D) Fernald Environmental Management
12 Project;

13 (E) Fermi National Accelerator Labora-
14 tory;

15 (F) Kansas City Plant;

16 (G) National Energy Technology Labora-
17 tory;

18 (H) Nevada Test Site;

19 (I) New Brunswick Laboratory;

20 (J) Pantex Weapons Facility;

21 (K) Princeton Plasma Physics Laboratory;

22 (L) Savannah River Technology Center;

23 (M) Stanford Linear Accelerator Center;

24 (N) Thomas Jefferson National Accel-
25 erator Facility;

1 (O) Y-12 facility at Oak Ridge National
2 Laboratory; or

3 (P) other similar organization of the De-
4 partment designated by the Secretary that en-
5 gages in technology transfer, partnering, or li-
6 censing activities;

7 (6) the term “nonprofit institution” has the
8 meaning given such term in section 4 of the Steven-
9 son-Wylder Technology Innovation Act of 1980 (15
10 U.S.C. 3703(5));

11 (7) the term “Secretary” means the Secretary
12 of Energy;

13 (8) the term “small business concern” has the
14 meaning given such term in section 3 of the Small
15 Business Act (15 U.S.C. 632);

16 (9) the term “technology-related business con-
17 cern” means a for-profit corporation, company, asso-
18 ciation, firm, partnership, or small business concern
19 that—

20 (A) conducts scientific or engineering re-
21 search,

22 (B) develops new technologies,

23 (C) manufactures products based on new
24 technologies, or

25 (D) performs technological services;

1 (10) the term “technology cluster” means a
2 concentration of—

3 (A) technology-related business concerns;

4 (B) institutions of higher education; or

5 (C) other nonprofit institutions,

6 that reinforce each other’s performance in the areas
7 of technology development through formal or infor-
8 mal relationships;

9 (11) the term “socially and economically dis-
10 advantaged small business concerns” has the mean-
11 ing given such term in section 8(a)(4) of the Small
12 Business Act (15 U.S.C. 637(a)(4));

13 (12) the term “NNSA” means the National
14 Nuclear Security Administration established by title
15 XXXII of the National Defense Authorization Act
16 for Fiscal Year 2000 (Public Law 106–65); and

17 (13) the term “Technology Partnerships Work-
18 ing Group” refers to the organization of technology
19 transfer representatives of DOE laboratories and fa-
20 cilities, the purpose of which is to coordinate tech-
21 nology transfer activities occurring at DOE labora-
22 tories and facilities, exchange information about
23 technology transfer practices, and develop and dis-
24 seminate to the public and prospective technology

1 partners information about DOE technology transfer
2 opportunities and procedures.

3 **SEC. 3. TECHNOLOGY INFRASTRUCTURE PROGRAM.**

4 (a) ESTABLISHMENT.—The Secretary, through the
5 appropriate officials of the Department, shall establish a
6 Technology Infrastructure Program in accordance with
7 this section.

8 (b) PURPOSE.—The purpose of the program shall be
9 to improve the ability of National Laboratories or facilities
10 to support departmental missions by—

11 (1) stimulating the development of technology
12 clusters that can support the missions of the Na-
13 tional Laboratories or facilities;

14 (2) improving the ability of National Labora-
15 tories or facilities to leverage and benefit from com-
16 mercial research, technology, products, processes,
17 and services; and

18 (3) encouraging the exchange of scientific and
19 technological expertise between National Labora-
20 tories or facilities and—

21 (A) institutions of higher education,

22 (B) technology-related business concerns,

23 (C) nonprofit institutions, and

24 (D) agencies of State, tribal, or local gov-
25 ernments,

1 that can support the missions of the National Lab-
2 oratories and facilities.

3 (c) PROGRAM.—In each of the first three fiscal years
4 after the date of enactment of this section, the Secretary
5 may provide no more than \$10,000,000 to National Lab-
6 oratories or facilities designated by the Secretary to con-
7 duct Technology Infrastructure Program programs.

8 (d) PROJECTS.—The Secretary shall authorize the
9 Director of each National Laboratory or facility des-
10 ignated under subsection (c) to implement the Technology
11 Infrastructure Program at such National Laboratory or
12 facility through projects that meet the requirements of
13 subsections (e) and (f).

14 (e) PROGRAM REQUIREMENTS.—Each project funded
15 under this section shall meet the following requirements:

16 (1) MINIMUM PARTICIPANTS.—Each project
17 shall at a minimum include—

18 (A) a National Laboratory or facility; and

19 (B) one of the following entities—

20 (i) a business,

21 (ii) an institution of higher education,

22 (iii) a nonprofit institution, or

23 (iv) an agency of a State, local, or
24 tribal government.

25 (2) COST SHARING.—

1 (A) MINIMUM AMOUNT.—Not less than 50
2 percent of the costs of each project funded
3 under this section be provided from non-Federal
4 sources.

5 (B) QUALIFIED FUNDING AND RE-
6 SOURCES.—

7 (i) The calculation of costs paid by
8 the non-Federal sources to a project shall
9 include cash, personnel, services, equip-
10 ment, and other resources expended on the
11 project.

12 (ii) Independent research and develop-
13 ment expenses of government contractors
14 that qualify for reimbursement under sec-
15 tion 31–205–18(e) of the Federal Acquisi-
16 tion Regulations issued pursuant to section
17 25(c)(1) of the Office of Federal Procure-
18 ment Policy Act (41 U.S.C. 421(c)(1))
19 may be credited toward costs paid by non-
20 Federal sources to a project, if the ex-
21 penses meet the other requirements of this
22 section.

23 (iii) No funds or other resources ex-
24 pended either before the start of a project
25 under this section or outside the project's

1 scope of work shall be credited toward the
2 costs paid by the non-Federal sources to
3 the project.

4 (3) COMPETITIVE SELECTION.—All projects
5 where a party other than the Department or a Na-
6 tional Laboratory or facility receives funding under
7 this section shall, to the extent practicable, be com-
8 petitively selected by the National Laboratory or fa-
9 cility using procedures determined to be appropriate
10 by the Secretary or his designee.

11 (4) ACCOUNTING STANDARDS.—Any participant
12 receiving funding under this section, other than a
13 National Laboratory or facility, may use generally
14 accepted accounting principles for maintaining ac-
15 counts, books, and records relating to the project.

16 (5) LIMITATIONS.—No Federal funds shall be
17 made available under this section for—

18 (A) construction; or

19 (B) any project for more than five years.

20 (f) SELECTION CRITERIA.—

21 (1) THRESHOLD FUNDING CRITERIA.—The Sec-
22 retary shall authorize the provision of Federal funds
23 for under this section only when the Director of the
24 National Laboratory or facility managing such a
25 project determines that the project is likely to im-

1 prove the participating National Laboratory or fa-
2 cility's ability to achieve technical success in meeting
3 departmental missions.

4 (2) ADDITIONAL CRITERIA.—The Secretary
5 shall also require the Director of the National Lab-
6 oratory or facility managing a project under this sec-
7 tion to consider the following criteria in selecting a
8 project to receive Federal funds—

9 (A) the potential of the project to succeed,
10 based on its technical merit, team members,
11 management approach, resources, and project
12 plan;

13 (B) the potential of the project to promote
14 the development of a commercially sustainable
15 technology cluster, one that will derive most of
16 the demand for its products or services from
17 the private sector, that can support the mis-
18 sions of the participating National Laboratory
19 or facility.

20 (C) the potential of the project to promote
21 the use of commercial research, technology,
22 products, processes, and services by the partici-
23 pating National Laboratory or facility to
24 achieve its departmental mission or the com-
25 mercial development of technical innovations

1 made at the participating National Laboratory
2 or facility;

3 (D) the commitment shown by non-Federal
4 organizations to the project, based primarily on
5 the nature and amount of the financial and
6 other resources they will risk on the project;

7 (E) the extent to which the project involves
8 a wide variety and number of institutions of
9 higher education, nonprofit institutions, and
10 technology-related business concerns that can
11 support the missions of the participating Na-
12 tional Laboratory or facility and that will make
13 substantive contributions to achieving the goals
14 of the project;

15 (F) the extent of participation in the
16 project by agencies of State, tribal, or local gov-
17 ernments that will make substantive contribu-
18 tions to achieving the goals of the project; and

19 (G) the extent to which the project focuses
20 on promoting the development of technology-re-
21 lated business concerns that are small business
22 concerns or involves such small business con-
23 cerns substantively in the project.

24 (3) SAVINGS CLAUSE.—Nothing in this sub-
25 section shall limit the Secretary from requiring the

1 consideration of other criteria, as appropriate, in de-
2 termining whether projects should be funded under
3 this section.

4 (g) REPORT TO CONGRESS ON FULL IMPLEMENTA-
5 TION.—Not later than 120 days after the start of the third
6 fiscal year after the date of enactment of this section, the
7 Secretary shall report to Congress on whether the Tech-
8 nology Infrastructure Program should be continued and,
9 if so, how the fully implemented program should be man-
10 aged.

11 **SEC. 4. SMALL BUSINESS ADVOCACY AND ASSISTANCE.**

12 (a) ADVOCACY FUNCTION.—The Secretary shall di-
13 rect the Director of each National Laboratory, and may
14 direct the Director of each facility the Secretary deter-
15 mines to be appropriate, to establish a small business ad-
16 vocacy function that is organizationally independent of the
17 procurement function at the National Laboratory or facil-
18 ity. The person or office vested with the small business
19 advocacy function shall—

20 (1) work to increase the participation of small
21 business concerns, including socially and economi-
22 cally disadvantaged small business concerns, in pro-
23 curement, collaborative research, technology licens-
24 ing, and technology transfer activities conducted by
25 the National Laboratory or facility;

1 (2) report to the Director of the National Lab-
2 oratory or facility on the actual participation of
3 small business concerns in procurement and collabo-
4 rative research along with recommendations, if ap-
5 propriate, on how to improve participation;

6 (3) make available to small business concerns
7 training, mentoring, and clear, up-to-date informa-
8 tion on how to participate in the procurement and
9 collaborative research, including how to submit effec-
10 tive proposals;

11 (4) increase the awareness inside the National
12 Laboratory or facility of the capabilities and oppor-
13 tunities presented by small business concerns; and

14 (5) establish guidelines for the program under
15 subsection (b) and report on the effectiveness of
16 such program to the Director of the National Lab-
17 oratory or facility.

18 (b) ESTABLISHMENT OF SMALL BUSINESS ASSIST-
19 ANCE PROGRAM.—The Secretary shall direct the Director
20 of each National Laboratory, and may direct the Director
21 of each facility the Secretary determines to be appropriate,
22 to establish a program to provide small business
23 concerns—

1 (1) assistance directed at making them more ef-
2 fective and efficient subcontractors or suppliers to
3 the National Laboratory or facility; or

4 (2) general technical assistance, the cost of
5 which shall not exceed \$10,000 per instance of as-
6 sistance, to improve the small business concern's
7 products or services.

8 (c) USE OF FUNDS.—None of the funds expended
9 under subsection (b) may be used for direct grants to the
10 small business concerns.

11 **SEC. 5. POLICY CONTINUITY FOR PARTNERSHIPS, AND**
12 **TECHNOLOGY TRANSFER.**

13 (a) The Secretary shall establish within the Office of
14 Policy, in conjunction with that Office's responsibilities as
15 executive secretariat to the Department's Research and
16 Development Council, a Technology Transfer Coordinator
17 to perform oversight of and policy development for tech-
18 nology transfer activities at the Department of Energy.

19 (1) The Secretary through Technology Transfer
20 Coordinator, shall to the extent feasible, insure that
21 the recommendations from the Report as generated
22 by the Secretary of Energy Advisory Board in sec-
23 tion 3163 of the "National Defense Authorization
24 Act for Fiscal Year 2001" are coordinated and car-
25 ried Department-wide to non-NNSA laboratories

1 and facilities consistent the statutory authority of
2 the Administrator of the NNSA.

3 (2) No funds under section 3(c) for partner-
4 ships shall be allocated under this Act until the Sec-
5 retary through the Technology Transfer Coordinator
6 has submitted to Congress an implementation plan
7 that adequately addresses concerns outlined by the
8 Administrator of NNSA of the Technology Infra-
9 structure Pilot Program of collaborative projects as
10 outlined in section 3161(b) of the “National Defense
11 Authorization Act for Fiscal Year 2001”. The Sec-
12 retary shall retain the discretion to not implement
13 the partnership program defined by section 3 if the
14 implementation concerns cannot be reasonably ad-
15 dressed.

16 (3) The Technology Transfer Coordinator shall
17 prepare a report to Congress for each fiscal year of
18 funding under this Act outlining accomplishments,
19 anticipated shortfalls, proposed remedies and ex-
20 penditure of funds related to DOE Technology
21 Transfer. The report should address the integration
22 of the Department’s Technology Transfer efforts
23 within the overall scope of Technology Transfer Poli-
24 cies within the U.S. Government.

1 (4) The Technology Transfer Coordinator shall
2 be designated by the Secretary as the Senior De-
3 partmental Official responsible for liaison with, and
4 the oversight of funds authorized in section 5(e) the
5 Technology Partnerships Working Group. The Coor-
6 dinator shall report on the Group's activities and
7 budget in subsection (3).

8 (b) AUTHORIZATION.—The following sums are au-
9 thorized to be appropriated to the Secretary of Energy,
10 to carry out the duties of the Technology Transfer Coordi-
11 nator and staff, to remain available until expended, for
12 the purposes of carrying out this Act:

13 (1) \$2,500,000 for fiscal year 2002.

14 (2) \$2,600,000 for fiscal year 2003.

15 (3) \$2,800,000 for fiscal year 2004.

16 (4) \$2,800,000 for fiscal year 2005.

17 (5) \$2,800,000 for fiscal year 2006.

18 (c) POLICY DEVELOPMENT.—Of the funds author-
19 ized to be appropriated under subsection (b) the following
20 sums are authorized to be appropriated to carry out DOE
21 Technology Transfer Policy Development and Reporting:

22 (1) \$1,000,000 for fiscal year 2002.

23 (2) \$1,100,000 for fiscal year 2003.

24 (3) \$1,200,000 for fiscal year 2004.

25 (4) \$1,200,000 for fiscal year 2005.

1 (5) \$1,200,000 for fiscal year 2006.

2 (d) TECHNOLOGY PARTNERSHIPS WORKING
3 GROUP.—Of the funds under subsection (b), the following
4 sums are authorized to be appropriated to carry out ad-
5 ministrative tasks DOE Technology Partnerships Working
6 Group:

7 (1) \$1,400,000 for fiscal year 2002.

8 (2) \$1,500,000 for fiscal year 2003.

9 (3) \$1,600,000 for fiscal year 2004.

10 (4) \$1,600,000 for fiscal year 2005.

11 (5) \$1,600,000 for fiscal year 2006.

12 **SEC. 6. OTHER TRANSACTIONS AUTHORITY.**

13 (a) NEW AUTHORITY.—Section 646 of the Depart-
14 ment of Energy Organization Act (42 U.S.C. 7256) is
15 amended adding at the end the following new subsection:

16 “(g) OTHER TRANSACTIONS AUTHORITY.—In addi-
17 tion to other authorities granted to the Secretary to enter
18 into procurement contracts, leases, cooperative agree-
19 ments, grants, and other similar arrangements, the Sec-
20 retary may enter into other transactions with public agen-
21 cies, private organizations, or persons on such terms as
22 the Secretary may deem appropriate in furtherance of
23 basic, applied, and advanced research functions now or
24 hereafter vested in the Secretary. Such other transactions
25 shall not be subject to the provisions of section 9 of the

1 Federal Nonnuclear Energy Research and Development
2 Act of 1974 (42 U.S.C. 5908).

3 “(2)(A) The Secretary of Energy shall ensure that—

4 “(i) to the maximum extent practicable, no
5 transaction entered into under paragraph (1) pro-
6 vides for research that duplicates research being
7 conducted under existing programs carried out by
8 the Department of Energy; and

9 “(ii) to the extent that the Secretary determines
10 practicable, the funds provided by the Government
11 under a transaction authorized by paragraph (1) do
12 not exceed the total amount provided by other par-
13 ties to the transaction.

14 “(B) A transaction authorized by paragraph (1) may
15 be used for a research project when the use of a standard
16 contract, grant, or cooperative agreement for such project
17 is not feasible or appropriate.

18 “(3)(A) The Secretary shall not disclose any trade
19 secret or commercial or financial information submitted
20 by a non-Federal entity under paragraph (1) that is privi-
21 leged and confidential.

22 “(B) The Secretary shall not disclose, for five years
23 after the date the information is received, any other infor-
24 mation submitted by a non-Federal entity under para-
25 graph (1), including any proposal, proposal abstract, docu-

1 ment supporting a proposal, business plan, or technical
2 information that is privileged and confidential.

3 “(C) The Secretary may protect from disclosure, for
4 up to five years, any information developed pursuant to
5 a transaction under paragraph (1) that would be protected
6 from disclosure under section 552(b)(4) of title 5, United
7 States Code, if obtained from a person other than a Fed-
8 eral agency.”.

9 (b) IMPLEMENTATION.—Not later than six months
10 after the date of enactment of this section, the Depart-
11 ment shall establish guidelines for the use of other trans-
12 actions. Other transactions shall be made available, if
13 needed, in order to implement projects funded under sec-
14 tion 3.

15 **SEC. 7. MOBILITY OF TECHNICAL PERSONNEL.**

16 (a) GENERAL POLICY.—Not later than two years
17 after the enactment of this Act, based upon the report
18 generated under section 3161(a)(2) of the “National De-
19 fense Authorization Act for Fiscal Year 2001”, the Sec-
20 retary through the Technology Transfer Coordinator shall
21 determine whether it is reasonable to ensure whether each
22 contractor operating a National Laboratory or facility has
23 policies and procedures that do not create disincentives to
24 the transfer of scientific, technical and business personnel
25 among the contractor-operated National Laboratory or fa-

1 cilities. This determination may be made on an individual
2 laboratory or facility basis due to their varied missions.

3 **SEC. 8. CONFORMANCE WITH NNSA STATUTORY AUTHOR-**
4 **ITY.**

5 All actions taken by the Secretary in carrying out this
6 Act with respect to National Laboratories and facilities
7 that are part of the NNSA shall be through the Adminis-
8 trator for Nuclear Security in accordance with the require-
9 ments of title XXXII of the National Defense Authoriza-
10 tion Act for Fiscal Year 2000.

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