

99TH CONGRESS
1ST SESSION

H. R. 3773

To amend the Stevenson-Wydler Technology Innovation Act of 1980 to promote technology transfer by authorizing Government-operated laboratories to enter into cooperative research agreements and by establishing a Federal Laboratory Consortium for Technology Transfer within the National Science Foundation, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

NOVEMBER 18, 1985

Mr. FUQUA (for himself, Mr. MICHEL, Mr. LUNDINE, Mr. WALGREN, Mr. LUJAN, Mr. BOEHLERT, Mr. BROWN of California, Mr. MINETA, Mr. RITTER, Mr. VALENTINE, Mr. HENBY, Mr. BRUCE, Mr. COBEY, and Mr. WIETH) introduced the following bill; which was referred to the Committee on Science and Technology

A BILL

To amend the Stevenson-Wydler Technology Innovation Act of 1980 to promote technology transfer by authorizing Government-operated laboratories to enter into cooperative research agreements and by establishing a Federal Laboratory Consortium for Technology Transfer within the National Science Foundation, 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.

2 This Act may be cited as the “Federal Technology
3 Transfer Act of 1985”.

4 SEC. 2. COOPERATIVE RESEARCH AND DEVELOPMENT
5 AGREEMENTS.

6 The Stevenson-Wydler Technology Innovation Act of
7 1980 is amended by redesignating sections 12 through 15 as
8 sections 15 through 18, and by inserting immediately after
9 section 11 the following new section:

10 “SEC. 12. COOPERATIVE RESEARCH AND DEVELOPMENT
11 AGREEMENTS.

12 “(a) GENERAL AUTHORITY.—Each Federal agency
13 may permit the director of any of its Government-operated
14 Federal laboratories—

15 “(1) to enter into cooperative research and devel-
16 opment agreements on behalf of such agency (subject
17 to subsection (c) of this section) with other Federal
18 agencies; units of State or local government; industrial
19 organizations including corporations, partnerships, and
20 limited partnerships; industrial development organiza-
21 tions; public and private foundations; nonprofit organi-
22 zations including universities; licensees of Federal in-
23 ventions; or other persons; and

24 “(2) to negotiate licensing agreements under sec-
25 tion 207 of title 35, United States Code, or under
26 other authorities.

1 “(b) ENUMERATED AUTHORITY.—Under agreements
2 described in subsection (a)(1), a Government-operated Feder-
3 al laboratory shall have the authority (subject to subsection
4 (c) of this section)—

5 “(1) to grant or agree to grant in advance, to a
6 collaborating party, patent licenses or assignments, or
7 options thereto, in any invention made by a Federal
8 employee, or made jointly by a Federal employee and
9 an employee of the collaborating party, under the
10 agreement, retaining such rights as the Federal labora-
11 tory deems appropriate; and

12 “(2) to waive in advance, in whole or in part, any
13 right of ownership which the Federal Government may
14 have to any subject invention made by a collaborating
15 party or employee of a collaborating party under the
16 agreement.

17 “(c) AGENCY PLAN.—(1)(A) Within 180 days after the
18 enactment of this section, revised regulations or instructions
19 for each agency’s cooperative research and development pro-
20 gram shall be drafted or modified. The revised regulations or
21 instructions need not apply to cooperative agreements en-
22 tered into prior to the effective date of such regulations or
23 instructions. Such revised regulations or instructions shall—

24 “(i) if they give the head of the agency or his des-
25 ignee an opportunity to disapprove or require the modi-

1 fication of any such agreement, provide a 30-day
2 period beginning on the date the agreement is present-
3 ed to him or her by the head of the laboratory con-
4 cerned within which such action must be taken;

5 “(ii) give special consideration to small business
6 firms, and consortia involving small business firms;

7 “(iii) give preference to business units located in
8 the United States which agree that products embody-
9 ing inventions made under the cooperative research
10 and development agreement or produced through the
11 use of such invention will be manufactured substantial-
12 ly in the United States;

13 “(iv) establish employee standards of conduct for
14 resolving potential conflicts of interest, including but
15 not limited to cases where present or former employees
16 or their partners negotiate licenses or assignments of
17 titles to inventions or negotiate cooperative research
18 and development agreements with Federal agencies
19 (including the agency with which the employee in-
20 volved is or was formerly employed); and

21 “(v) contain other elements deemed appropriate
22 by the agency.

23 “(B) In any case in which the head of an agency or his
24 designee disapproves or requires the modification of an agree-
25 ment presented under this section, the head of the agency or

1 such designee shall transmit a written explanation of such
2 disapproval or modification to the head of the laboratory
3 concerned.

4 “(C) If, in implementing subparagraph (A)(iv), an
5 agency is unable to resolve potential conflicts of interest
6 within its current statutory framework, it shall propose nec-
7 essary statutory changes to be forwarded to its authorizing
8 committees in Congress.

9 “(2) Each agency shall maintain a record of all agree-
10 ments entered into under this section.

11 “(d) DEFINITION.—As used in this section, the term
12 ‘cooperative research and development agreement’ means
13 any agreement between one or more Federal laboratories and
14 one or more non-Federal parties under which the laboratory
15 or laboratories will provide personnel, services, facilities,
16 equipment, or other resources (but not funds to non-Federal
17 parties) and the non-Federal party or parties will provide
18 funds, personnel, services, facilities, equipment, or other re-
19 sources toward the conduct of specified research or develop-
20 ment efforts which are consistent with the missions of the
21 agency; except that such term does not include a procure-
22 ment contract as that term is used in section 6303 of title 31,
23 United States Code, or a cooperative agreement as that term
24 is used in section 6305 of such title.

1 “(e) RELATIONSHIP TO OTHER LAWS.—Nothing in
2 this section is intended to limit or diminish existing authori-
3 ties of any agency.”.

4 SEC. 3. ESTABLISHMENT OF FEDERAL LABORATORY CONSOR-
5 TIUM FOR TECHNOLOGY TRANSFER.

6 Section 11 of the Stevenson-Wydler Technology Inno-
7 vation Act of 1980 (15 U.S.C. 3710) is amended—

8 (1) by redesignating subsection (e) as subsection
9 (f); and

10 (2) by inserting after subsection (d) the following
11 new subsection:

12 “(e) ESTABLISHMENT OF FEDERAL LABORATORY
13 CONSORTIUM FOR TECHNOLOGY TRANSFER.—(1) There is
14 hereby established the Federal Laboratory Consortium for
15 Technology Transfer (hereinafter referred to as the ‘Consorti-
16 um’) which shall be within the National Science Foundation
17 and which, in cooperation with Federal laboratories and the
18 private sector, shall—

19 “(A) develop and administer techniques, training
20 courses, and materials concerning technology transfer
21 to increase the awareness of Federal laboratory em-
22 ployees regarding the commercial potential of laborato-
23 ry technology and innovations, except that such tech-
24 niques, courses, and materials may be administered

1 only with the consent of the Federal laboratory
2 concerned;

3 “(B) furnish advice and assistance requested by
4 Federal agencies and laboratories for use in their tech-
5 nology transfer programs (including the planning of
6 seminars for small business and other industry);

7 “(C) provide a clearinghouse for requests for tech-
8 nical assistance from States and units of local govern-
9 ments, businesses, industrial development organiza-
10 tions, not-for-profit organizations including universities,
11 Federal agencies and laboratories, and other persons,
12 and—

13 “(i) to the extent that such requests can be
14 responded to with published information available
15 to the National Technical Information Service,
16 refer such requests to that Service; and

17 “(ii) otherwise refer these requests to the ap-
18 propriate Federal laboratories and agencies;

19 “(D) facilitate communication and coordination be-
20 tween Offices of Research and Technology Applica-
21 tions of Federal laboratories;

22 “(E) utilize (with the consent of the agency in-
23 volved) the expertise and services of the National Sci-
24 ence Foundation, the Department of Commerce, the

1 National Aeronautics and Space Administration, and
2 other Federal agencies, as necessary;

3 “(F) with the consent of any Federal laboratory,
4 facilitate the use by such laboratory of appropriate
5 technology transfer mechanisms such as personnel ex-
6 changes and computer-based systems;

7 “(G) with the consent of any Federal laboratory,
8 assist such laboratory to establish technical volunteer
9 service programs for the purpose of providing technical
10 assistance to communities related to such laboratory;
11 and

12 “(H) facilitate communication and cooperation be-
13 tween Offices of Research and Technology Applica-
14 tions of Federal laboratories and regional, State, and
15 local technology transfer organizations.

16 “(2) The membership of the Consortium shall consist of
17 the Federal laboratories described in clause (1) of subsection
18 (b) and such other laboratories as may choose to join the
19 Consortium. The representatives to the Consortium shall in-
20 clude a senior staff member of each Federal laboratory which
21 is a member of the Consortium and a representative appoint-
22 ed from each Federal agency with one or more member
23 laboratories.

24 “(3) The representatives to the Consortium shall elect a
25 Chairman of the Consortium.

1 “(4) The Director of the National Science Foundation
2 shall provide the Consortium on a reimbursable basis with
3 administrative services, such as office space, personnel, and
4 support services of the Foundation, as requested by the Con-
5 sortium and approved by such Director.

6 “(5) Not later than one year after the date of the enact-
7 ment of this subsection, and every year thereafter, the Chair-
8 man of the Consortium shall submit a report to the President,
9 to the appropriate authorization and appropriation commit-
10 tees of both Houses of the Congress, and to each agency with
11 respect to which a transfer of funding is made (for the fiscal
12 year or years involved) under paragraph (6), concerning the
13 activities of the Consortium and the expenditures made by it
14 under this subsection during the year for which the report is
15 made.

16 “(6)(A) Subject to subparagraph (B), an amount equal to
17 0.005 percent of that portion of the research and develop-
18 ment budget of each Federal agency that is to be utilized by
19 the laboratories of such agency for a fiscal year referred to in
20 subparagraph (B)(ii) shall be transferred by such agency to
21 the National Science Foundation at the beginning of the
22 fiscal year involved. Amounts so transferred shall be provided
23 by the Foundation to the Consortium for the purpose of car-
24 rying out activities of the Consortium under this subsection.

1 “(B) A transfer may be made by any Federal agency
2 under subparagraph (A), for any fiscal year, only if—

3 “(i) the amount so transferred by that agency (as
4 determined under such subparagraph) would exceed
5 \$10,000; and

6 “(ii) such transfer is made with respect to the
7 fiscal year 1987, 1988, 1989, 1990, or 1991.

8 “(C) The heads of Federal agencies and their designees,
9 and the directors of Federal laboratories, are authorized to
10 provide such additional support for operations of the Consor-
11 tium as they deem appropriate.”.

12 **SEC. 4. UTILIZATION OF FEDERAL TECHNOLOGY.**

13 (a) **RESPONSIBILITY FOR TECHNOLOGY TRANSFER.—**
14 Section 11(a) of the Stevenson-Wydler Technology Innova-
15 tion Act of 1980 (15 U.S.C. 3710(a)) is amended—

16 (1) by inserting “(1)” after “POLICY.—”; and

17 (2) by adding at the end thereof the following new
18 paragraphs:

19 “(2) Technology transfer, consistent with mission re-
20 sponsibilities, is a responsibility of each laboratory science
21 and engineering professional.

22 “(3) Each laboratory director shall ensure that efforts to
23 transfer technology are considered positively in laboratory job
24 descriptions, employee promotion policies, and evaluation of

1 the job performance of scientists and engineers in the
2 laboratory.”.

3 (b) RESEARCH AND TECHNOLOGY APPLICATIONS OF-
4 FICES.—(1) Section 11(b) of such Act (15 U.S.C. 3710(b)) is
5 amended—

6 (A) by striking out “a total annual budget exceed-
7 ing \$20,000,000 shall provide at least one professional
8 individual full-time” and inserting in lieu thereof “200
9 or more full-time scientific, engineering, and related
10 technical positions shall provide one or more full-time
11 equivalent positions”;

12 (B) by striking out “requirements set forth in (1)
13 and/or (2) of this subsection” in the next to last sen-
14 tence and inserting in lieu thereof “requirement set
15 forth in clause (2) of the preceding sentence”; and

16 (3) by striking out “either requirement (1) or (2)”
17 in the last sentence and inserting in lieu thereof “such
18 requirement”.

19 (2) Section 11(c) of such Act (15 U.S.C. 3710(c)) is
20 amended—

21 (A) by striking out paragraph (1) and inserting in
22 lieu thereof the following:

23 “(1) to prepare application assessments for select-
24 ed research and development projects in which that
25 laboratory is engaged and which in the opinion of the

1 laboratory may have potential commercial applica-
2 tions;”;

3 (B) by inserting “all” before “federally owned” in
4 paragraph (2);

5 (C) by striking out “the Center for the Utilization
6 of Federal Technology” in paragraph (3) and inserting
7 in lieu thereof “the National Technical Information
8 Service, the Federal Laboratory Consortium for Tech-
9 nology Transfer,”; and

10 (D) by striking out “in response to requests from
11 State and local government officials” in paragraph (4)
12 and inserting in lieu thereof “to State and local gov-
13 ernment officials”.

14 (c) DISSEMINATION OF TECHNICAL INFORMATION.—
15 Section 11(d) of such Act (15 U.S.C. 3710(d)) is amended—

16 (1) by striking out “(d)” and all that follows down
17 through “shall—” and inserting in lieu thereof the
18 following:

19 “(d) DISSEMINATION OF TECHNICAL INFORMATION.—
20 The National Technical Information Service shall—”;

21 (2) by striking out paragraph (2);

22 (3) by striking out “existing” in paragraph (3),
23 and redesignating such paragraph as paragraph (2);

24 (4) by striking out paragraph (4) and inserting in
25 lieu thereof the following:

1 “(3) receive requests for technical assistance from
2 State and local governments, respond to such requests
3 with published information available to the Service,
4 and refer such requests to the Federal Laboratory Con-
5 sortium for Technology Transfer to the extent that
6 such requests need a response involving more than the
7 published information available to the Service;”;

8 (5) by redesignating paragraphs (5) and (6) as
9 paragraphs (4) and (5), respectively; and

10 (6) by striking out “(c)(4)” in subsection (4) as so
11 redesignated and inserting in lieu thereof “(c)(3)”.

12 (d) AGENCY REPORTING.—Section 11(f) of such Act
13 (15 U.S.C. 3710(e)) (as redesignated by section 3(1) of this
14 Act) is amended—

15 (1) by striking out “prepare biennially a report
16 summarizing the activities” in the first sentence and
17 inserting in lieu thereof “report annually to the Con-
18 gress, as part of the agency’s annual budget submis-
19 sion, on the activities”; and

20 (2) by striking out the second sentence.

21 (e) FUNCTIONS OF THE SECRETARY.—Section 11 of
22 such Act (as amended by the preceding provisions of this Act)
23 is further is amended by adding at the end thereof the follow-
24 ing new subsection:

1 “(g) FUNCTIONS OF THE SECRETARY.—The Secretary,
2 in consultation with other Federal agencies, may—

3 “(1) make available to interested agencies the ex-
4 pertise of the Department of Commerce regarding the
5 commercial potential of inventions and methods and
6 options for commercialization which are available to
7 the Federal laboratories, including research and devel-
8 opment limited partnerships;

9 “(2) develop and disseminate to appropriate
10 agency and laboratory personnel model provisions for
11 use on a voluntary basis in cooperative research and
12 development arrangements; and

13 “(3) furnish advice and assistance, upon request,
14 to Federal agencies concerning their cooperative re-
15 search and development program and projects.”.

16 **SEC. 5. REWARDS FOR SCIENTIFIC, ENGINEERING, AND TECH-**
17 **NICAL PERSONNEL OF FEDERAL AGENCIES.**

18 The Stevenson-Wydler Technology Innovation Act of
19 1980 (as amended by the preceding provisions of this Act) is
20 further amended by inserting after section 12 the following
21 new section:

1 "SEC. 13. REWARDS FOR SCIENTIFIC, ENGINEERING, AND
2 TECHNICAL PERSONNEL OF FEDERAL AGEN-
3 CIES.

4 "The head of each Federal agency that is making ex-
5 penditures at a rate of more than \$50,000,000 per fiscal year
6 for research and development in its Government-operated
7 laboratories shall use the appropriate statutory authority to
8 develop and implement a cash awards program to reward its
9 scientific, engineering, and technical personnel for—

10 "(1) inventions, innovations, or other outstanding
11 scientific or technological contributions of value to the
12 United States due to commercial applications or due to
13 contributions to missions of the Federal agency or the
14 Federal government, or

15 "(2) exemplary activities that promote the domes-
16 tic transfer of science and technology developed within
17 the Federal Government and result in utilization of
18 such science and technology by American industry or
19 business, universities, State or local governments, or
20 other non-Federal parties."

21 SEC. 6. DISTRIBUTION OF ROYALTIES RECEIVED BY FEDERAL
22 AGENCIES.

23 The Stevenson-Wydler Technology Innovation Act of
24 1980 (as amended by the preceding provisions of this Act) is
25 further amended by inserting after section 13 the following
26 new section:

1 "SEC. 14. DISTRIBUTION OF ROYALTIES RECEIVED BY FEDER-
2 AL AGENCIES.

3 "(a) IN GENERAL.—(1) Except as provided in para-
4 graph (2), any royalties or other income received by a Feder-
5 al agency from the licensing or assignment of inventions
6 under agreements entered into under section 12, and from
7 inventions of Government-operated Federal laboratories li-
8 censed under section 207 of title 35, United States Code, or
9 under any other provision of law shall be retained by the
10 agency involved in the production of the income. Such funds
11 shall be transferred by the agency to its governmentoperated
12 laboratories, with the major share of the royalties or other
13 income from any invention going to the laboratory where the
14 invention occurred; and the funds so transferred to any such
15 laboratory may be used or obligated by that laboratory during
16 the fiscal year in which they are received or during the suc-
17 ceeding fiscal year—

18 "(A) for payment of expenses incidental to the ad-
19 ministration and licensing of inventions by that labora-
20 tory or by the agency with respect to inventions which
21 occurred at that laboratory, including the fees or other
22 costs for the services of other agencies, persons, or or-
23 ganizations for invention management and licensing
24 services;

25 "(B) to reward scientific, engineering, and techni-
26 cal employees of that laboratory as part of the agen-

1 cy's reward program established pursuant to the pre-
2 ceding section of this Act; provided that any payment
3 made under this paragraph shall be in addition to the
4 regular pay of the employee involved and to any other
5 awards made to that employee, and shall not affect the
6 entitlement of the employee to any regular pay, annu-
7 ity, or award to which he is otherwise entitled or for
8 which he is otherwise eligible or limit the amount
9 thereof;

10 "(C) to further scientific exchange among the gov-
11 ernment-operated laboratories of the agency; or

12 "(D) for scientific research and development, for
13 education and training of employees of that consistent
14 with the research and development mission and objec-
15 tives of the agency, and for other activities that in-
16 crease the licensing potential for transfer of the tech-
17 nology of the government-operated laboratories of the
18 agency.

19 Any of such funds not so used or obligated by the end of the
20 fiscal year succeeding the fiscal year in which they are re-
21 ceived shall be paid into the Treasury of the United States.

22 "(2) If the royalties received by an agency in any fiscal
23 year exceed 5 percent of the budget of the government-oper-
24 ated laboratories of the agency for that year, 75 percent of
25 such excess shall be paid to the Treasury of the United

1 States and the remaining 25 percent may be used or obligat-
2 ed for the purposes described in subparagraphs (A) through
3 (C) of paragraph (1) during that fiscal year or the succeeding
4 fiscal year. Any funds not so used or obligated shall be paid
5 into the Treasury of the United States.

6 “(b) CERTAIN ASSIGNMENTS.—In the event that the
7 invention involved was one assigned to the Federal agency—

8 “(1) by a contractor, grantee, or party to a coop-
9 erative agreement with the agency, or

10 “(2) by an employee of the agency who was not
11 working in a laboratory at the time the invention was
12 made,

13 the agency unit that funded or employed the entity that made
14 such assignment shall be considered to be a government-op-
15 erated laboratory for purposes of this section.

16 “(c) REPORTS.—In making their annual budget submis-
17 sions Federal agencies shall submit, to the appropriate au-
18 thorization and appropriation committees of both Houses of
19 the Congress, summaries of the amount of royalties or other
20 income received and expenditures made (including inventor
21 awards) under this section.”.

22 **SEC. 7. MISCELLANEOUS AND CONFORMING AMENDMENTS.**

23 (a) REPEAL OF NATIONAL INDUSTRIAL TECHNOLOGY
24 BOARD.—Section 10 of the Stevenson-Wydler Technology
25 Innovation Act of 1980 (15 U.S.C. 3709) is repealed.

1 (b) CHANGES IN TERMINOLOGY OR ADMINISTRATIVE
2 STRUCTURE.—(1) Section 3(2) of the Stevenson-Wydler
3 Technology Innovation Act of 1980 is amended by striking
4 out “centers for industrial technology” and inserting in lieu
5 thereof “cooperative research centers”.

6 (2) Section 4 of such Act is amended—

7 (A) by striking out “Industrial Technology” in
8 paragraph (1) and inserting in lieu thereof “Productivity,
9 Technology, and Innovation”;

10 (B) by striking out “ ‘Director’ means the Direc-
11 tor of the Office of Industrial Technology” in para-
12 graph (3) and inserting in lieu thereof “ ‘Assistant Sec-
13 retary’ means the Assistant Secretary for Productivity,
14 Technology, and Innovation”;

15 (C) by striking out “Centers for Industrial Tech-
16 nology” in paragraph (4) and inserting in lieu thereof
17 “Cooperative Research Centers”;

18 (D) by striking out paragraph (6), and redesignat-
19 ing paragraphs (7) and (8) as paragraphs (6) and (7),
20 respectively; and

21 (E) by striking out “owned and funded” in para-
22 graph (6) as so redesignated and inserting in lieu there-
23 of “owned, leased, or otherwise used by a Federal
24 agency and funded”.

1 (3) Section 5(a) of such Act is amended by striking out
2 “Industrial Technology” and inserting in lieu thereof “Pro-
3 ductivity, Technology, and Innovation”.

4 (4) Section 5(b) of such Act is amended by striking out
5 “DIRECTOR” and inserting in lieu thereof “ASSISTANT SEC-
6 RETARY”, and by striking out “a Director of the Office” and
7 all that follows and inserting in lieu thereof “an Assistant
8 Secretary for Productivity, Technology, and Innovation.”.

9 (5) Section 5(c) of such Act is amended by striking out
10 “the Director” each place it appears and inserting in lieu
11 thereof “the Assistant Secretary”.

12 (6) The heading of section 6 of such Act is amended to
13 read as follows:

14 **“SEC. 6. COOPERATIVE RESEARCH CENTERS.”**

15 (7) Section 6(a) of such Act is amended by striking out
16 “Centers for Industrial Technology” and inserting in lieu
17 thereof “Cooperative Research Centers”.

18 (8) Section 6(b)(1) of such Act is amended by striking
19 out “basic and applied”.

20 (9) Section 6(e) of such Act is amended to read as
21 follows:

22 “(e) **RESEARCH AND DEVELOPMENT UTILIZATION.—**
23 In the promotion of technology from research and develop-
24 ment efforts by Centers under this section, chapter 18 of title

1 35, United States Code, shall apply to the extent not incon-
2 sistent with this section.”.

3 (10) Section 6(f) of such Act is repealed.

4 (11) The heading of section 8 of such Act is amended by
5 striking out “**CENTERS FOR INDUSTRIAL TECH-**
6 **NOLOGY**” and inserting in lieu thereof “**COOPERA-**
7 **TIVE RESEARCH CENTERS**”.

8 (12) Section 8(a) of such Act is amended by striking out
9 “Centers for Industrial Technology” and inserting in lieu
10 thereof “Cooperative Research Centers”.

11 (c) RELATED CONFORMING AMENDMENT.—Section
12 210 of title 35, United States Code, is amended by adding at
13 the end thereof the following new subsection:

14 “(e) The provisions of the Stevenson-Wydler Technolo-
15 gy Innovation Act of 1980, as amended by the Federal Tech-
16 nology Transfer Act of 1985, shall take precedence over the
17 provisions of this chapter to the extent that they permit or
18 require a disposition of rights in subject inventions which is
19 inconsistent with such chapter.”.

20 (d) ADDITIONAL DEFINITIONS.—Section 4 of such Act
21 (as amended by subsection (b)(2) of this section) is further
22 amended by adding at the end thereof the following new
23 paragraphs:

24 “(8) ‘Federal agency’ means any executive agency
25 as defined in section 105 of title 5, United States

1 Code, and the military departments as defined in sec-
2 tion 102 of such title.

3 “(9) ‘Invention’ means any invention or discovery
4 which is or may be patentable or otherwise protected
5 under title 35, United States Code, or any novel varie-
6 ty of plant which is or may be protectable under the
7 Plant Variety Protection Act (7 U.S.C. 2321 et seq.).

8 “(10) ‘Made’ when used in conjunction with any
9 invention means the conception or first actual reduction
10 to practice of such invention.

11 “(11) ‘Small business firm’ means a small business
12 concern as defined in section 2 of Public Law 85-536
13 (15 U.S.C. 632) and implementing regulations of the
14 Administrator of the Small Business Administration.”.

15 (e) REDESIGNATION OF SECTIONS TO REFLECT
16 CHANGES MADE BY PRECEDING PROVISIONS.—(1) Such
17 Act (as amended by the preceding provisions of this Act) is
18 further amended by redesignating sections 11 through 18 as
19 sections 10 through 17, respectively.

20 (2)(A) Section 5(d) of such Act is amended by inserting
21 “(as then in effect)” after “sections 5, 6, 8, 11, 12, and 13 of
22 this Act”.

23 (B) Section 8(a) of such Act is amended by striking out
24 the last sentence.

1 (C) Section 9(d) of such Act is amended by striking out
2 “or 13” and inserting in lieu thereof “or 12”.

3 (3) Section 13(a)(1) of such Act (as redesignated by
4 paragraph (1) of this subsection) is amended by striking out
5 “section 12” in the matter preceding subparagraph (A) and
6 inserting in lieu thereof “section 11”.

○