

113<sup>TH</sup> CONGRESS  
2<sup>D</sup> SESSION

# H. R. 5120

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## AN ACT

To improve management of the National Laboratories, enhance technology commercialization, facilitate public-private partnerships, 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; TABLE OF CONTENTS.**

2 (a) SHORT TITLE.—This Act may be cited as the  
3 “Department of Energy Laboratory Modernization and  
4 Technology Transfer Act of 2014”.

5 (b) TABLE OF CONTENTS.—The table of contents of  
6 this Act is as follows:

- Sec. 1. Short title; table of contents.
- Sec. 2. Definitions.
- Sec. 3. Savings clause.

TITLE I—INNOVATION MANAGEMENT AT DEPARTMENT OF  
ENERGY

- Sec. 101. Under Secretary for Science and Energy.
- Sec. 102. Technology transfer assessment.
- Sec. 103. Sense of Congress.

TITLE II—CROSS-SECTOR PARTNERSHIPS AND GRANT  
COMPETITIVENESS

- Sec. 201. Agreements for Commercializing Technology pilot program.
- Sec. 202. Public-private partnerships for commercialization.
- Sec. 203. Inclusion of early-stage technology demonstration in authorized technology transfer activities.
- Sec. 204. Funding competitiveness for institutions of higher education and other nonprofit institutions.
- Sec. 205. Participation in the Innovation Corps program.

TITLE III—ASSESSMENT OF IMPACT

- Sec. 301. Report by Government Accountability Office.

7 **SEC. 2. DEFINITIONS.**

8 In this Act:

9 (1) DEPARTMENT.—The term “Department”  
10 means the Department of Energy.

11 (2) NATIONAL LABORATORIES.—The term “Na-  
12 tional Laboratory” means a Department of Energy  
13 nonmilitary national laboratory, including—

14 (A) Ames Laboratory;

- 1 (B) Argonne National Laboratory;  
2 (C) Brookhaven National Laboratory;  
3 (D) Fermi National Accelerator Labora-  
4 tory;  
5 (E) Idaho National Laboratory;  
6 (F) Lawrence Berkeley National Labora-  
7 tory;  
8 (G) National Energy Technology Labora-  
9 tory;  
10 (H) National Renewable Energy Labora-  
11 tory;  
12 (I) Oak Ridge National Laboratory;  
13 (J) Pacific Northwest National Labora-  
14 tory;  
15 (K) Princeton Plasma Physics Laboratory;  
16 (L) Savannah River National Laboratory;  
17 (M) Stanford Linear Accelerator Center;  
18 (N) Thomas Jefferson National Accel-  
19 erator Facility; and  
20 (O) any laboratory operated by the Na-  
21 tional Nuclear Security Administration, but  
22 only with respect to the civilian energy activities  
23 thereof.
- 24 (3) SECRETARY.—The term “Secretary” means  
25 the Secretary of Energy.

1 **SEC. 3. SAVINGS CLAUSE.**

2 Nothing in this Act or an amendment made by this  
3 Act abrogates or otherwise affects the primary responsibil-  
4 ities of any National Laboratory to the Department.

5 **TITLE I—INNOVATION MANAGE-**  
6 **MENT AT DEPARTMENT OF**  
7 **ENERGY**

8 **SEC. 101. UNDER SECRETARY FOR SCIENCE AND ENERGY.**

9 (a) IN GENERAL.—Section 202(b) of the Department  
10 of Energy Organization Act (42 U.S.C. 7132(b)) is  
11 amended—

12 (1) by striking “Under Secretary for Science”  
13 each place it appears and inserting “Under Sec-  
14 retary for Science and Energy”; and

15 (2) in paragraph (4)—

16 (A) in subparagraph (F), by striking  
17 “and” at the end;

18 (B) in subparagraph (G), by striking the  
19 period at the end and inserting a semicolon;  
20 and

21 (C) by inserting after subparagraph (G)  
22 the following:

23 “(H) establish appropriate linkages be-  
24 tween offices under the jurisdiction of the  
25 Under Secretary; and

1           “(I) perform such functions and duties as  
2           the Secretary shall prescribe, consistent with  
3           this section.”.

4           (b) CONFORMING AMENDMENTS.—

5           (1) Section 3164(b)(1) of the Department of  
6           Energy Science Education Enhancement Act (42  
7           U.S.C. 7381a(b)(1)) is amended by striking “Under  
8           Secretary for Science” and inserting “Under Sec-  
9           retary for Science and Energy”.

10          (2) Section 641(h)(2) of the United States En-  
11          ergy Storage Competitiveness Act of 2007 (42  
12          U.S.C. 17231(h)(2)) is amended by striking “Under  
13          Secretary for Science” and inserting “Under Sec-  
14          retary for Science and Energy”.

15       **SEC. 102. TECHNOLOGY TRANSFER ASSESSMENT.**

16          Not later than 180 days after the date of enactment  
17          of this Act, the Secretary shall transmit to the Committee  
18          on Science, Space, and Technology of the House of Rep-  
19          resentatives and the Committee on Energy and Natural  
20          Resources of the Senate a report which shall include—

21               (1) an assessment of the Department’s current  
22               ability to carry out the goals of section 1001 of the  
23               Energy Policy Act of 2005 (42 U.S.C. 16391), in-  
24               cluding an assessment of the role and effectiveness

1 of the Technology Transfer Coordinator position;  
2 and

3 (2) recommended departmental policy changes  
4 and legislative changes to section 1001 of the En-  
5 ergy Policy Act of 2005 (42 U.S.C. 16391) to im-  
6 prove the Department’s ability to successfully trans-  
7 fer new energy technologies to the private sector.

8 **SEC. 103. SENSE OF CONGRESS.**

9 It is the sense of the Congress that—

10 (1) the establishment of the independent Com-  
11 mission to Review the Effectiveness of the National  
12 Energy Laboratories under section 319 of title III of  
13 division D of the Consolidated Appropriations Act,  
14 2014, is an important step towards developing a co-  
15 ordinated strategy for the National Laboratories in  
16 the 21st century;

17 (2) Congress looks forward to—

18 (A) receiving the findings and conclusions  
19 of the Commission; and

20 (B) engaging with the Administration—

21 (i) in strengthening the mission of the  
22 National Laboratories; and

23 (ii) to reform and modernize the oper-  
24 ations and management of the National  
25 Laboratories; and

1           (3) the Secretary should encourage the National  
2           Laboratories and federally funded research and de-  
3           velopment centers to inform small businesses of the  
4           opportunities and resources that exist pursuant to  
5           this Act.

6           **TITLE II—CROSS-SECTOR PART-**  
7           **NERSHIPS AND GRANT COM-**  
8           **PETITIVENESS**

9           **SEC. 201. AGREEMENTS FOR COMMERCIALIZING TECH-**  
10           **NOLOGY PILOT PROGRAM.**

11           (a) IN GENERAL.—The Secretary shall carry out the  
12           Agreements for Commercializing Technology pilot pro-  
13           gram of the Department, as announced by the Secretary  
14           on December 8, 2011, in accordance with this section.

15           (b) TERMS.—Each agreement entered into pursuant  
16           to the pilot program referred to in subsection (a) shall  
17           provide to the contractor of the applicable National Lab-  
18           oratory, to the maximum extent determined to be appro-  
19           priate by the Secretary, increased authority to negotiate  
20           contract terms, such as intellectual property rights, pay-  
21           ment structures, performance guarantees, and multiparty  
22           collaborations.

23           (c) ELIGIBILITY.—

1           (1) IN GENERAL.—Any director of a National  
2           Laboratory may enter into an agreement pursuant  
3           to the pilot program referred to in subsection (a).

4           (2) AGREEMENTS WITH NON-FEDERAL ENTI-  
5           TIES.—To carry out paragraph (1) and subject to  
6           paragraph (3), the Secretary shall permit the direc-  
7           tors of the National Laboratories to execute agree-  
8           ments with a non-Federal entity, including a non-  
9           Federal entity already receiving Federal funding  
10          that will be used to support activities under agree-  
11          ments executed pursuant to paragraph (1), provided  
12          that such funding is solely used to carry out the  
13          purposes of the Federal award.

14          (3) RESTRICTION.—The requirements of chap-  
15          ter 18 of title 35, United States Code (commonly  
16          known as the “Bayh-Dole Act”) shall apply if—

17                 (A) the agreement is a funding agreement  
18                 (as that term is defined in section 201 of that  
19                 title); and

20                 (B) at least 1 of the parties to the funding  
21                 agreement is eligible to receive rights under  
22                 that chapter.

23          (d) SUBMISSION TO SECRETARY.—Each affected di-  
24          rector of a National Laboratory shall submit to the Sec-

1 retary, with respect to each agreement entered into under  
2 this section—

3 (1) a summary of information relating to the  
4 relevant project;

5 (2) the total estimated costs of the project;

6 (3) estimated commencement and completion  
7 dates of the project; and

8 (4) other documentation determined to be ap-  
9 propriate by the Secretary.

10 (e) CERTIFICATION.—The Secretary shall require the  
11 contractor of the affected National Laboratory to certify  
12 that each activity carried out under a project for which  
13 an agreement is entered into under this section—

14 (1) is not in direct competition with the private  
15 sector; and

16 (2) does not present, or minimizes, any appar-  
17 ent conflict of interest, and avoids or neutralizes any  
18 actual conflict of interest, as a result of the agree-  
19 ment under this section.

20 (f) EXTENSION.—The pilot program referred to in  
21 subsection (a) shall be extended for a term of 2 years after  
22 the date of enactment of this Act.

23 (g) REPORTS.—

24 (1) OVERALL ASSESSMENT.—Not later than 60  
25 days after the date described in subsection (f), the

1 Secretary, in coordination with directors of the Na-  
2 tional Laboratories, shall submit to the Committee  
3 on Science, Space, and Technology of the House of  
4 Representatives and the Committee on Energy and  
5 Natural Resources of the Senate a report that—

6 (A) assesses the overall effectiveness of the  
7 pilot program referred to in subsection (a);

8 (B) identifies opportunities to improve the  
9 effectiveness of the pilot program;

10 (C) assesses the potential for program ac-  
11 tivities to interfere with the responsibilities of  
12 the National Laboratories to the Department;  
13 and

14 (D) provides a recommendation regarding  
15 the future of the pilot program.

16 (2) TRANSPARENCY.—The Secretary, in coordi-  
17 nation with directors of the National Laboratories,  
18 shall submit to the Committee on Science, Space,  
19 and Technology of the House of Representatives and  
20 the Committee on Energy and Natural Resources of  
21 the Senate an annual report that accounts for all  
22 incidences of, and provides a justification for, non-  
23 Federal entities using funds derived from a Federal  
24 contract or award to carry out agreements pursuant  
25 to this section.

1 **SEC. 202. PUBLIC-PRIVATE PARTNERSHIPS FOR COMMER-**  
2 **CIALIZATION.**

3 (a) IN GENERAL.—Subject to subsections (b) and (c),  
4 the Secretary shall delegate to directors of the National  
5 Laboratories signature authority with respect to any  
6 agreement described in subsection (b) the total cost of  
7 which (including the National Laboratory contributions  
8 and project recipient cost share) is less than \$1,000,000.

9 (b) AGREEMENTS.—Subsection (a) applies to—

10 (1) a cooperative research and development  
11 agreement;

12 (2) a non-Federal work-for-others agreement;  
13 and

14 (3) any other agreement determined to be ap-  
15 propriate by the Secretary, in collaboration with the  
16 directors of the National Laboratories.

17 (c) ADMINISTRATION.—

18 (1) ACCOUNTABILITY.—The director of the af-  
19 fected National Laboratory and the affected con-  
20 tractor shall carry out an agreement under this sec-  
21 tion in accordance with applicable policies of the De-  
22 partment, including by ensuring that the agreement  
23 does not compromise any national security, eco-  
24 nomic, or environmental interest of the United  
25 States.

1           (2) CERTIFICATION.—The director of the af-  
2           fected National Laboratory and the affected con-  
3           tractor shall certify that each activity carried out  
4           under a project for which an agreement is entered  
5           into under this section does not present, or mini-  
6           mizes, any apparent conflict of interest, and avoids  
7           or neutralizes any actual conflict of interest, as a re-  
8           sult of the agreement under this section.

9           (3) AVAILABILITY OF RECORDS.—On entering  
10          an agreement under this section, the director of a  
11          National Laboratory shall submit to the Secretary  
12          for monitoring and review all records of the National  
13          Laboratory relating to the agreement.

14          (4) RATES.—The director of a National Lab-  
15          oratory may charge higher rates for services per-  
16          formed under a partnership agreement entered into  
17          pursuant to this section, regardless of the full cost  
18          of recovery, if such funds are used exclusively to  
19          support further research and development activities  
20          at the respective National Laboratory.

21          (d) CONFORMING AMENDMENT.—Section 12 of the  
22          Stevenson-Wydler Technology Innovation Act of 1980 (15  
23          U.S.C. 3710a) is amended—

24                 (1) in subsection (a)—

1 (A) by redesignating paragraphs (1) and  
2 (2) as subparagraphs (A) and (B), respectively,  
3 and indenting the subparagraphs appropriately;

4 (B) by striking “Each Federal agency”  
5 and inserting the following:

6 “(1) IN GENERAL.—Except as provided in para-  
7 graph (2), each Federal agency”; and

8 (C) by adding at the end the following:

9 “(2) EXCEPTION.—Notwithstanding paragraph  
10 (1), in accordance with section 202(a) of the Depart-  
11 ment of Energy Laboratory Modernization and  
12 Technology Transfer Act of 2014, approval by the  
13 Secretary of Energy shall not be required for any  
14 technology transfer agreement proposed to be en-  
15 tered into by a National Laboratory of the Depart-  
16 ment of Energy, the total cost of which (including  
17 the National Laboratory contributions and project  
18 recipient cost share) is less than \$1,000,000.”; and

19 (2) in subsection (b), by striking “subsection  
20 (a)(1)” each place it appears and inserting “sub-  
21 section (a)(1)(A)”.

1 **SEC. 203. INCLUSION OF EARLY-STAGE TECHNOLOGY DEM-**  
2 **ONSTRATION IN AUTHORIZED TECHNOLOGY**  
3 **TRANSFER ACTIVITIES.**

4 Section 1001 of the Energy Policy Act of 2005 (42  
5 U.S.C. 16391) is amended by—

6 (1) redesignating subsection (g) as subsection  
7 (h); and

8 (2) inserting after subsection (f) the following:

9 “(g) **EARLY-STAGE TECHNOLOGY DEMONSTRA-**  
10 **TION.**—The Secretary shall permit the directors of the Na-  
11 tional Laboratories to use funds authorized to support  
12 technology transfer within the Department to carry out  
13 early-stage and pre-commercial technology demonstration  
14 activities to remove technology barriers that limit private  
15 sector interest and demonstrate potential commercial ap-  
16 plications of any research and technologies arising from  
17 National Laboratory activities.”.

18 **SEC. 204. FUNDING COMPETITIVENESS FOR INSTITUTIONS**  
19 **OF HIGHER EDUCATION AND OTHER NON-**  
20 **PROFIT INSTITUTIONS.**

21 Section 988(b) of the Energy Policy Act of 2005 (42  
22 U.S.C. 16352(b)) is amended—

23 (1) in paragraph (1), by striking “Except as  
24 provided in paragraphs (2) and (3)” and inserting  
25 “Except as provided in paragraphs (2), (3), and  
26 (4)”; and

1 (2) by adding at the end the following:

2 “(4) EXEMPTION FOR INSTITUTIONS OF HIGH-  
3 ER EDUCATION AND OTHER NONPROFIT INSTITU-  
4 TIONS.—

5 “(A) IN GENERAL.—Paragraph (1) shall  
6 not apply to a research or development activity  
7 performed by an institution of higher education  
8 or nonprofit institution (as defined in section 4  
9 of the Stevenson-Wydler Technology Innovation  
10 Act of 1980 (15 U.S.C. 3703)).

11 “(B) TERMINATION DATE.—The exemp-  
12 tion under subparagraph (A) shall apply during  
13 the 6-year period beginning on the date of en-  
14 actment of this paragraph.”.

15 **SEC. 205. PARTICIPATION IN THE INNOVATION CORPS PRO-**  
16 **GRAM.**

17 The Secretary may enter into an agreement with the  
18 Director of the National Science Foundation to enable re-  
19 searchers funded by the Department to participate in the  
20 National Science Foundation Innovation Corps program.

1           **TITLE III—ASSESSMENT OF**  
2                                   **IMPACT**

3   **SEC. 301. REPORT BY GOVERNMENT ACCOUNTABILITY OF-**  
4                                   **FICE.**

5           Not later than 3 years after the date of enactment  
6 of this Act, the Comptroller General of the United States  
7 shall submit to Congress a report—

8                   (1) describing the results of the projects devel-  
9                   oped under sections 201, 202, and 203, including in-  
10                   formation regarding—

11                           (A) partnerships initiated as a result of  
12                           those projects and the potential linkages pre-  
13                           sented by those partnerships with respect to na-  
14                           tional priorities and other taxpayer-funded re-  
15                           search; and

16                           (B) whether the activities carried out  
17                           under those projects result in—

18                                   (i) fiscal savings;

19                                   (ii) expansion of National Laboratory  
20                                   capabilities;

21                                   (iii) increased efficiency of technology  
22                                   transfers; or

23                                   (iv) an increase in general efficiency  
24                                   of the National Laboratory system; and

1           (2) assess the scale, scope, efficacy, and impact  
2           of the Department's efforts to promote technology  
3           transfer and private sector engagement at the Na-  
4           tional Laboratories, and make recommendations on  
5           how the Department can improve these activities.

Passed the House of Representatives July 22, 2014.

Attest:

*Clerk.*

113<sup>TH</sup> CONGRESS  
2<sup>D</sup> SESSION

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## AN ACT

To improve management of the National Laboratories, enhance technology commercialization, facilitate public-private partnerships, and for other purposes.