A BILL

To authorize the establishment of an Inventions Awards Board within the Department of Defense, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

That this Act may be cited as the "Inventions Awards Act of 1955".

DECLARATION OF POLICY

SEC. 2. It is the purpose of this Act to foster invention for national defense through the establishment within the Department of Defense of an Inventions Awards Board which shall be authorized to recommend to the Secretary the making of such awards, to be known as National Defense Awards, as
it shall consider just for meritorious inventions contributing
to the national defense.

DEFINITIONS

SEC. 3. As used in this Act—

(a) The term "invention" means any art, machine,
manufacture, composition of matter, or any new and useful
improvement thereof which is useful, or susceptible of use,
for application in the national defense of the United States,
and which is not subject to the provisions of the Atomic
Energy Act of 1946, whether or not such invention is
patented, unpatented, or patentable.

(b) The term "inventor" means any person who has
made an invention.

(c) The term "person" shall include any natural person,
and his heirs.

(d) The term "the Department" shall mean the De-
partment of Defense, and the term "Secretary" shall mean
the Secretary of Defense.

(e) The term "defense agency" means the Department,
or any other department, agency, or independent establish-
ment in the executive branch of the Government (except the
Atomic Energy Commission), and any wholly owned Gov-
ernment corporation, designated by the President as a defense
agency for the purposes of this Act.
(f) The term "Board" means the Inventions Awards Board established pursuant to section 5 of this Act.

(g) The term "award" means a National Defense Award authorized by section 4 of this Act.

NATIONAL DEFENSE AWARDS

Sec. 4. Whenever any inventor has disclosed to any defense agency any invention which contributes or has contributed substantially to the national defense, and any such agency in consequence of such disclosure has used such invention, the Secretary, upon the recommendation of the Board, may make a National Defense Award to such inventor in such amount, and subject to such terms and conditions, as the Board shall determine in conformity with the provisions of this Act to be just compensation for such invention or the use thereof.

INVENTIONS AWARDS BOARD

Sec. 5. (a) The Secretary is authorized to establish within the Department an Inventions Awards Board which shall be composed of not more than fifteen members appointed by the Secretary, for such term or terms as he may specify, from persons in civil life who are eminent in one or more of the following fields of activity: invention, science, research, development, and patent law. The Board shall meet at such times as the Secretary may specify to consider
Applications made pursuant to section 6 of this Act for awards. Five members shall constitute a quorum of the Board.

(b) Each member shall receive compensation at the rate of $75 for each day of his attendance at meetings of the Board, and shall be reimbursed for all travel expenses actually incurred by him in the performance of his duties as a member of the Board.

(c) The Board shall perform the duties required of it by section 6 of this Act. The Secretary shall provide the Board with such personnel and facilities as he may determine to be required by the Board for the performance of its functions.

(d) The Board may promulgate such rules and regulations, not inconsistent with this Act, as may be required for the performance of its duties hereunder.

Applications for Awards and Proceedings Thereon

SEC. 6: (a) Any inventor may file with the Secretary an application for an award under section 4 of this Act. Such application may be filed upon information and belief, and shall contain a statement concerning—

(1) the nature of such invention;

(2) the ownership thereof;

(3) the time and manner of its disclosure to any defense agency;
(4) the nature and extent of its use by any defense agency;

(5) the utility of such invention to the United States in the interest of national defense;

(6) the nature and extent of the compensation received by such inventor from the United States under any other provision of law, or on account of the development or use of such invention;

(7) the nature and extent of the compensation for which application is made pursuant to this Act; and

(8) such other facts as the Board shall deem pertinent.

(b) Each application so filed shall be transmitted to the Board which, subject to the provisions of this Act and the Administrative Procedure Act, shall hear and determine the questions presented by such application, and shall make and transmit to the Secretary a report thereon in which the Board shall set forth—

(1) its findings of fact and conclusions of law;

(2) its recommendation on the question whether the applicant is entitled to an award under this Act; and

(3) the terms and conditions upon which any such award should be made.

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DETERMINATION OF ELIGIBILITY FOR AWARDS AND QUANTUM THEREOF

Sec. 7. (a) In any proceeding under this Act, the applicant shall bear the burden of establishing by probative proof the disclosure of the invention in question by the inventor directly or indirectly to a defense agency and the use of such invention by a defense agency in consequence of such disclosure, except that—

(1) in the case of a patented invention, proof of the issuance of a patent thereon shall constitute proof of disclosure of such invention to a defense agency; and

(2) in the case of an invention described in a patent application which has been duly filed and has been placed under secrecy pursuant to any provision of law, proof of access to such application by any officer or employee of any defense agency shall constitute proof of disclosure of such invention to such agency.

(b) In any proceeding under this Act, the respondent defense agency or agencies shall be entitled to assert any legal or equitable defense which could be asserted by the United States in any suit brought by the applicant against the United States for judicial relief on account of the use—
of the invention in question by the United States, except that—

(1) the worth of such invention shall be measured by its contribution to the needs of the national defense, and not by the advance it makes in the field to which it pertains;

(2) the validity of any patent issued to the inventor for such invention shall be presumed in the absence of competent proof of the invalidity of such patent; and

(3) proof that the disclosure made by the inventor to any defense agency was sufficiently specific to permit the making or practicing of such invention shall constitute proof of the actual reduction of such invention to practice.

(c) Payment by the United States of the cost, in whole or in part, of developing an invention shall not bar the making of an award under this Act to the inventor thereof, but in determining the amount of any such award consideration shall be given to—

(1) the extent to which such development was made at the expense of the inventor, and the extent to which such development was made at the expense of the United States;
(2) the extent to which the inventor has benefited and will benefit through the commercial exploitation of such invention in consequence of development made at the expense of the United States; and

(3) the extent to which the inventor has been denied the benefits of commercial exploitation of such invention in consequence of any secrecy restrictions imposed by the United States.

(d) If, in any proceeding under this Act, it shall appear to the Board that more than one inventor is entitled to compensation with respect to the same invention, the Board shall ascertain and determine the interests of each such inventor, and shall recommend the division of the award, in such proportions as it shall deem equitable, among all persons whom it shall find to be entitled to share therein.

PAYMENT OF AWARDS

Sec. 8. (a) Any award made pursuant to this Act may be paid in a single payment or by such periodic payments as the Board may recommend.

(b) Awards so made shall be paid from funds appropriated to the defense agency principally interested in the invention for which such award is made, as determined by the Board, and may be paid from any funds appropriated to such agency which are available for the procurement of equipment or supplies incorporating such invention or result-
It is intended from the practice of such invention. If the head of the defense agency concerned certifies that funds are not available to such agency for the payment of any such award, the Secretary shall include in his budget estimate for the Department for the next fiscal year an appropriate item for the payment of such award.

(c) No award made under this Act shall be paid until each person entitled to share therein has executed a release, in such form as the Secretary shall approve, by which such person surrenders, for himself and all others holding rights from him, all further claims against the United States for compensation with respect to the invention for which such award is made.

(d) No award shall be paid under this Act to any inventor or with respect to any invention in any amount exceeding $75,000 until such award has been transmitted to and approved by the Congress. The approval of the Congress to any such award shall be deemed to have been granted upon the expiration of the first period of one hundred and twenty calendar days of continuous session of the Congress following the date on which such award is transmitted to it for approval; but only if prior to the expiration of such period there has not been passed a concurrent resolution disapproving such award or approving such award in a reduced amount or subject to different conditions. If within
such period any such resolution is passed authorizing payment
of such award in a reduced amount or subject to different
conditions, payment of such award may be made in con-
formity with the terms of such resolution.

PROCEEDINGS UNDER OTHER STATUTES

SEC. 9. (a) Nothing contained in this Act shall—
(1) prevent any department or agency of the
United States from making any payment to any inventor
pursuant to any other provision of law; or
(2) bar any inventor from prosecuting any suit in
the Court of Claims pursuant to section 1498 of title 28
of the United States Code with respect to any invention,
or from recovering judgment in any such suit.

(b) No inventor shall be entitled to receive any award
pursuant to this Act with respect to any invention—
(1) for which he has received any compensation
(other than salary received for services rendered as
an officer or employee of the Government) under any
other provision of law; or
(2) with respect to which he has instituted any
suit in the Court of Claims for compensation pursuant to
section 1498 of title 28 of the United States Code.
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To authorize the establishment of an Inventions Awards Board within the Department of Defense, and for other purposes.

By Mr. Celler

January 5, 1955
Referred to the Committee on the Judiciary