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Robillard says
good chance to
pass this Session
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82D CONGRESS
2D SESSION

H. R. 7316

= S 2840

IN THE HOUSE OF REPRESENTATIVES

MARCH 31, 1952

Mr. CELLER introduced the following bill; which was referred to the Committee on the Judiciary

A BILL

To authorize the establishment of an Inventions Awards Board within the Department of Defense, 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 That this Act may be cited as the "Inventions Awards
4 Act of 1952".

DECLARATION OF POLICY

5
6 SEC. 2. It is the purpose of this Act to foster invention
7 for national defense through the establishment within the
8 Department of Defense of an Inventions Awards Board
9 which shall be authorized to recommend to the Secretary the
10 making of such awards, to be known as National Defense

1 Awards, as it shall consider just for meritorious inven-
2 tions contributing to the national defense.

3 DEFINITIONS

4 SEC. 3. As used in this Act—

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

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

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

16 (d) The term "the Department" shall mean the Depart-
17 ment of Defense, and the term "Secretary" shall mean the
18 Secretary of Defense.

19 (e) The term "defense agency" means the Department,
20 or any other department, agency, or independent establish-
21 ment in the executive branch of the Government (except
22 the Atomic Energy Commission), and any wholly owned

1 Government corporation, designated by the President as a
2 defense agency for the purposes of this Act.

3 (f) The term "Board" means the Inventions Awards
4 Board established pursuant to section 5 of this Act.

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

7 NATIONAL DEFENSE AWARDS

8 SEC. 4. Whenever any inventor has disclosed to any
9 defense agency any invention which contributes or has con-
10 tributed substantially to the national defense, and any such
11 agency in consequence of such disclosure has used such in-
12 vention, the Secretary, upon the recommendation of the
13 Board, may make a National Defense Award to such inven-
14 tor in such amount, and subject to such terms and conditions,
15 as the Board shall determine in conformity with the pro-
16 visions of this Act to be just compensation for such invention
17 or the use thereof.

18 INVENTIONS AWARDS BOARD

19 SEC. 5. (a) The Secretary is authorized to establish
20 within the Department an Inventions Awards Board which
21 shall be composed of not more than fifteen members ap-
22 pointed by the Secretary, for such term or terms as he may

1 specify, from persons in civil life who are eminent in one or
2 more of the following fields of activity: Invention, science
3 research, development, and patent law. The Board shall
4 meet at such times as the Secretary may specify to consider
5 applications made pursuant to section 6 of this Act for awards.
6 Five members shall constitute a quorum of the Board.

7 (b) Each member shall receive compensation at the rate
8 of \$75 for each day of his attendance at meetings of the
9 Board, and shall be reimbursed for all travel expenses ac-
10 tually incurred by him in the performance of his duties as a
11 member of the Board.

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

16 (d) The Board may promulgate such rules and regula-
17 tions, not inconsistent with this Act, as may be required for
18 the performance of its duties hereunder.

19 APPLICATIONS FOR AWARDS AND PROCEEDINGS THEREON

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

- 24 (1) the nature of such invention;
25 (2) the ownership thereof;

1 (3) the time and manner of its disclosure to any
2 defense agency;

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

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

7 (6) the nature and extent of the compensation re-
8 ceived by such inventor from the United States under
9 any other provision of law for or on account of the
10 development or use of such invention;

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

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

15 (b) Each application so filed shall be transmitted to
16 the Board which, subject to the provisions of this Act and
17 of the Administrative Procedure Act, shall hear and deter-
18 mine the questions presented by such application; and shall
19 make and transmit to the Secretary a report thereon in which
20 the Board shall set forth—

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

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

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

3 DETERMINATION OF ELIGIBILITY FOR AWARDS AND
4 QUANTUM THEREOF

5 SEC. 7. (a) In any proceeding under this Act, the ap-
6 plicant shall bear the burden of establishing by probative
7 proof the disclosure of the invention in question by the
8 inventor directly or indirectly to a defense agency and the
9 use of such invention by a defense agency in consequence
10 of such disclosure, except that—

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

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

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

1 of the invention in question by the United States, except
2 that—

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

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

10 (3) proof that the disclosure made by the inventor
11 to any defense agency was sufficiently specific to permit
12 the making or practicing of such invention shall con-
13 stitute proof of the actual reduction of such invention to
14 practice.

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

20 (1) the extent to which such development was
21 made at the expense of the inventor, and the extent to
22 which such development was made at the expense of the
23 United States;

24 (2) the extent to which the inventor has benefited

1 and will benefit through the commercial exploitation of
2 such invention in consequence of development made at
3 the expense of the United States; and

4 (3) the extent to which the inventor has been de-
5 nied the benefits of commercial exploitation of such
6 invention in consequence of any secrecy restrictions
7 imposed by the United States.

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

15 PAYMENT OF AWARDS

16 SEC. 8. (a) Any award made pursuant to this Act
17 may be paid in a single payment or by such periodic pay-
18 ments as the Board may recommend.

19 (b) Awards so made shall be paid from funds appro-
20 priated to the defense agency principally interested in the
21 invention for which such award is made, as determined by
22 the Board, and may be paid from any funds appropriated to
23 such agency which are available for the procurement of
24 equipment or supplies incorporating such invention or result-
25 ing from the practice of such invention. If the head of

1 the defense agency concerned certifies that funds are not
2 available to such agency for the payment of any such award,
3 the Secretary shall include in his budget estimate for the
4 Department for the next fiscal year an appropriate item for
5 the payment of such award.

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

13 (d) No award shall be paid under this Act to any
14 inventor or with respect to any invention in any amount
15 exceeding \$75,000 until such award has been transmitted to
16 and approved by the Congress. The approval of the Con-
17 gress to any such award shall be deemed to have been
18 granted upon the expiration of the first period of one hundred
19 and twenty calendar days of continuous session of the Con-
20 gress following the date on which such award is transmitted
21 to it for approval, but only if prior to the expiration of such
22 period there has not been passed a concurrent resolution
23 disapproving such award or approving such award in a
24 reduced amount or subject to different conditions. If within
25 such period any such resolution is passed authorizing payment

1 of such award in a reduced amount or subject to different
2 conditions, payment of such award may be made in con-
3 formity with the terms of such resolution.

4 PROCEEDINGS UNDER OTHER STATUTES

5 SEC. 9. (a) Nothing contained in this Act shall—

6 (1) prevent any department or agency of the
7 United States from making any payment to any inventor
8 pursuant to any other provision of law; or

9 (2) bar any inventor from prosecuting any suit in
10 the Court of Claims pursuant to section 1498 of title 28
11 of the United States Code with respect to any invention,
12 or from recovering judgment in any such suit.

13 (b) No inventor shall be entitled to receive any award
14 pursuant to this Act with respect to any invention—

15 (1) for which he has received any compensation
16 (other than salary received for services rendered as an
17 officer or employee of the Government) under any other
18 provision of law; or

19 (2) with respect to which he has instituted any
20 suit in the Court of Claims for compensation pursuant to
21 section 1498 of title 28 of the United States Code.

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