

[COMMITTEE PRINT]

MAY 24, 1952

82^D CONGRESS
2^D SESSION**H. R. 7316**

IN THE HOUSE OF REPRESENTATIVES

MARCH 31, 1952

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

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A BILL

To authorize the establishment of an ~~Inventions~~ *Inventive Contributions* 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~~ *Inventive*
 4 *Contributions* Awards Act of 1952".

5 DECLARATION OF POLICY

- 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~~ *Inventive Contribu-*

1 tions Awards Board which shall be authorized to recom-
2 mend to the Secretary the making of such awards, to be
3 known as National Defense Awards, as it shall consider
4 just for meritorious inventions contributing to the national
5 defense.

6 DEFINITIONS

7 SEC. 3. As used in this Act—

8 (a) The term "~~invention contribution~~" means any art,
9 machine, manufacture, composition of matter, or any new
10 and useful improvement thereof *inventive contribution* which
11 is useful, or susceptible of use, for application used in the na-
12 tional defense of the United States, and which is not subject
13 to the provisions of the Atomic Energy Act of 1946, ~~whether~~
14 or not such invention is patented, unpatented, or patentable.

15 (b) The term "~~inventor contributor~~" means any person
16 who has made an ~~invention~~ *inventive contribution*.

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

19 (d) The term "the Department" shall mean the Depart-
20 ment of Defense, and the term "Secretary" shall mean the
21 Secretary of Defense.

22 (e) The term "defense agency" means the Department,
23 or any other department, agency, or independent establish-
24 ment in the executive branch of the Government (except

1 the Atomic Energy Commission), ~~and~~ or any wholly owned
2 Government corporation, designated by the President as a
3 defense agency for the purposes of this Act.

4 (f) The term "Board" means the ~~Inventions~~ *Inventive*
5 *Contributions* Awards Board established pursuant to section
6 5 of this Act.

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

9 (h) *The term "communication" shall mean either a*
10 *disclosure in writing or a submission of a physical embodi-*
11 *ment of the contribution.*

12 NATIONAL DEFENSE AWARDS

13 SEC. 4. Whenever any ~~inventor contributor~~ has ~~disclosed~~
14 *directly or indirectly communicated his contribution* to any
15 defense agency any ~~invention which contributes or has con-~~
16 ~~tributed substantially to the national defense, and any such~~
17 agency in consequence of such ~~disclosure communication~~ has
18 *used or caused to be used such invention, contribution, the*
19 Secretary, upon the recommendation of the Board, may
20 make a National Defense Award to such ~~inventor contributor~~
21 in such amount, and subject to such terms and conditions,
22 as the Board shall determine in conformity with the pro-
23 visions of this Act to be ~~just compensation for such invention~~
24 *or a proper award for the use thereof.*

1 ~~INVENTIONS~~ *INVENTIVE CONTRIBUTIONS* AWARDS BOARD

2 SEC. 5. (a) The Secretary is authorized to establish
3 within the Department an ~~Inventions~~ *Inventive Contribu-*
4 *tions* Awards Board which shall be composed of not more
5 than fifteen members appointed by the Secretary, *by and*
6 *with the advice and consent of the Congress*, for such term
7 or terms as he may specify, from ~~persons~~ *individuals* in civil
8 life who are eminent in one or more of the following fields
9 of activity: Invention, science research, development, and
10 patent law. ~~The~~ *A quorum of the* Board shall meet at such
11 times as the Secretary may specify to consider applications
12 made pursuant to section 6 of this Act for awards. Five
13 members shall constitute a quorum of the Board.

14 (b) Each member shall receive compensation at the rate
15 of ~~\$75~~ *\$50* for each day of his attendance at meetings of the
16 Board, and shall be reimbursed for all travel expenses ac-
17 tually incurred by him in the performance of his duties as a
18 member of the Board.

19 (c) The Board shall perform the duties required of it by
20 section 6 of this Act. The Secretary shall provide the Board
21 with such personnel and facilities as he may determine to be
22 required by the Board *subject to approval by the Secretary*,
23 for the performance of its functions.

24 (d) The Board may promulgate such rules and regula-

1 tions, not inconsistent with this Act, as may be required for
2 the performance of its duties hereunder.

3 APPLICATIONS FOR AWARDS AND PROCEEDINGS THEREON

4 SEC. 6. (a) Any ~~inventor~~ contributor may file with the
5 Secretary an application for an award under section 4 of
6 this Act, or be recommended for an award by the head of
7 any defense agency. Such application or recommendation
8 may be filed upon information and belief, and shall contain
9 a statement concerning—

- 10 (1) the nature of such ~~invention~~ contribution;
- 11 (2) the ownership thereof;
- 12 (3) the ~~time~~ date and manner of its disclosure
13 communication to any defense agency;
- 14 ~~(4)~~ the nature and extent of its use by any defense
15 agency;
- 16 ~~(5)~~ the utility of such invention to the United
17 States in the interest of national defense;
- 18 ~~(6)~~ ~~(4)~~ the nature and extent of the compensation
19 received by such ~~inventor~~ contributor from the United
20 States under any other provision of law for or on account
21 of the development or use of such invention; *in connec-*
22 *tion with the contribution.*

23 ~~(7)~~ ~~(5)~~ the nature and extent of the compensation

1. *award* for which application or *recommendation* is made
 2. pursuant to this Act; and

3. ~~(8)~~ (6) such other ~~facts~~ *information* as the Board
 4. shall deem ~~pertinent~~ *prescribe by its rules.*

5. (b) Each application or *recommendation* so filed shall
 6. be transmitted to the Board which, subject to the provisions
 7. of this Act and of the ~~Administrative Procedure Act~~, shall
 8. ~~hear and~~ *shall* determine the questions presented by such
 9. application, and shall make and transmit to the Secretary a
 10. report thereon in which the Board shall set forth—

11. (1) its findings of fact and ~~conclusions of law~~;

12. (2) its ~~recommendation~~ *conclusions and recommen-*
 13. *dations* on the question whether the ~~applicant~~ *contributor*
 14. is entitled to an award under this Act; and

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

17. DETERMINATION OF ELIGIBILITY FOR AWARDS AND

18. QUANTUM THEREOF

19. SEC. 7. (a) In any proceeding under this Act, the ~~ap-~~
 20. ~~plicant~~ *contributor* shall bear the burden of establishing by
 21. ~~probative proof~~ the ~~disclosure~~ *communication* of the inven-
 22. ~~tion~~ *contribution* in question by the ~~inventor~~ *directly* or
 23. ~~indirectly~~ to a defense agency and the use of such invention
 24. by a defense agency in consequence of such disclosure, except
 25. ~~that~~ *that the submission of a contribution to the National*

1 *Inventors Council and by that Council to a defense agency*
2 *shall constitute proof of communication.*

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

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

12 (b) In any proceeding under this Act, the respondent
13 defense agency or agencies shall be entitled to assert any
14 legal or equitable defense which could be asserted by the
15 United States in any suit brought by the applicant against
16 the United States for judicial relief on account of the use
17 of the invention in question by the United States, except
18 that—any law to the contrary notwithstanding, if the Board
19 finds that the contributor communicated the contribution and
20 as a result thereof it was used, the Board may recommend
21 an award.

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

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

4 ~~(3)~~ proof that the disclosure made by the inventor
5 to any defense agency was sufficiently specific to permit
6 the making or practicing of such invention shall con-
7 stitute proof of the actual reduction of such invention to
8 practice.

9 ~~(c)~~ Payment by the United States of the cost, in whole
10 or in part, of developing an invention shall not bar the mak-
11 ing of an award under this Act to the inventor thereof, but
12 in *In* determining the amount of any such award consider-
13 ation shall be given to—

14 (1) *The novelty, originality, and utility of the con-*
15 *tribution;*

16 ~~(1)~~ (2) the extent to which such development was
17 made at the expense of the ~~inventor~~ contributor, and the
18 extent to which such development was made at the
19 expense of the United States;

20 ~~(2)~~ (3) the extent to which the ~~inventor~~ contribu-
21 tor has benefited and will benefit or reasonably can be
22 expected to benefit through the commercial exploitation
23 of such invention in consequence of development made at
24 the expense of the United States; and *contribution;*

25 ~~(3)~~ (4) the extent to which the ~~inventor~~ contribu-

1 ~~tor~~ has been denied the benefits of commercial exploita-
2 tion of such ~~invention~~ *contribution* in consequence of any
3 secrecy restrictions imposed by the United States
4 States; and

5 (5) *The extent to which the contributor has been*
6 *compensated for said contribution by the United States.*

7 (d) If, in any proceeding under this Act, it shall appear
8 to the Board that more than one ~~inventor~~ *contributor* is en-
9 titled to compensation with respect to the same ~~invention~~
10 *contribution* the Board shall ascertain and determine the
11 interests of each such ~~inventor~~, *contributor* and shall recom-
12 mend the division of the award, in such proportions as it
13 shall deem equitable, among all persons whom it shall find
14 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~~ *contribution* for which such award is made, as
22 determined by the Board, and may be paid from any funds
23 appropriated to such agency which are available for the
24 procurement of equipment or supplies incorporating such
25 ~~invention~~ *contribution* or resulting from the practice of such

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

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

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

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

5 PROCEEDINGS UNDER OTHER STATUTES

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

7 (1) prevent any ~~department or~~ *defense agency* of
8 the United States from making any payment to any
9 *inventor contributor* pursuant to any other provision of
10 law; or

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

15 ~~(b) No inventor shall be entitled to receive any award~~
16 pursuant to this Act with respect to any invention—

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

21 ~~(2) with respect to which he has instituted any~~
22 ~~suit in the Court of Claims for compensation pursuant to~~
23 ~~section 1498 of title 28 of the United States Code bar~~
24 ~~any contributor from prosecuting any suit under any~~
25 ~~other provision of law.~~

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