EXTENSIONS OF REMARKS

H.R. 2544, THE TECHNOLOGY TRANSFER COMMERCIALIZATION ACT OF 1997

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OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

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Mrs. MORELLA. Mr. Speaker, today I am introducing H.R. 2544, the Technology Transfer Commercialization Act of 1997, a bill which promotes technology transfer by facilitating licenses for federally owned inventions.

Each day research and development programs at our Nation's over 700 Federal laboratories produce new knowledge, processes, and products. Often, technologies and techniques generated in these Federal laboratories have commercial applications if further developed by the industrial community.

As a result, Federal laboratories are working closely with U.S. business, industry, and State and local governments to help them apply these new capabilities to their own particular needs. Through this technology transfer process our Federal laboratories are sharing the benefits of our national investment in scientific progress with all segments of our society.

It seems clear that the economic advances of the 21st century will be rooted in the research and development performed in our Nation's laboratories. These advances are becoming even more dependent upon the continuous transfer of technology into commercial goods and services. By spinning off and commercializing federally developed technology, the results of our Federal research and development enterprise are being used today to enhance our Nation's ability to compete in the global marketplace.

For over a decade and a half, Congress, led by the Science Committee has embraced the importance of technology transfer to our Federal laboratories and to our international competitiveness. We have enacted legislation establishing a system to facilitate this transfer of technology to the private sector and to State and local governments.

The primary law to promote the transfer of technology from Federal laboratories is the Stevenson-Wydler Technology Innovation Act of 1980. The Stevenson-Wydler Act, Public Law 96–480, makes it easier to transfer technology from the laboratories and provides a means for private sector researchers to access laboratory developments.

In addition, Congress has enacted additional laws to foster technology transfer, including the Federal Technology Transfer Act of 1986, Public Law 99–502; the Omnibus Trade and Competitiveness Act of 1988, Public Law 100–418; the National Competitiveness Technology Transfer Act of 1989, Public Law 101–189; and the American Technology Preeminence Act of 1991, Public Law 102–245, among others. In addition, Congress enacted the amendments to the patent and trademark laws, also known as the Bayh-Dole Act of 1980, Public Law 96–517.

Most recently, in the past Congress, the National Technology Transfer and Advancement Act of 1995, Public Law 104–113, which I introduced, was enacted into law. Public Law 104–113 amends the Stevenson-Wydler Technology Innovation Act of 1980 and the Federal Technology Transfer Act of 1986 to improve U.S. competitiveness by speeding commercialization of inventions developed through collaborative agreements between the Government and industry. The law also promotes partnership ventures with Federal laboratories and the private sector and creates incentives to laboratory personnel for new inventions.

As the chair of the House Science Committee's Technology Subcommittee, I am pleased to continue this tradition of advancing technology transfer and encouraging research and development partnerships between Government and industry with the introduction of H.R. 2544, the Technology Transfer Commercialization Act. H.R. 2544 seeks to remove the legal obstacles to effectively license federally owned inventions, created in Government-owned, Government-operated laboratories, by adopting the successful Bayh-Dole Act as a framework.

The bill provides parallel authorities to those currently in place under the Bayh-Dole Act for licensing university or university-operated Federal laboratory inventions. This bill also amends the Stevenson-Wydler Act, as amended, to allow Federal laboratories to include already existing patented inventions into a cooperative research and development agreement [CRADA].

Thus, agencies would be provided with two important new tools for effectively commercializing on-the-shelf federally owned technologies—either licensing them as stand-alone inventions, under the bill's revised authorities of section 209 of the Bayh-Dole Act, or including them as part of a larger package under a CRADA. In doing so, this will make both mechanisms much more attractive to U.S. companies that are striving to form partnerships with Federal laboratories.

Additionally, H.R. 2544 removes language requiring onerous public notification procedures in the current law, recognizing that in partnership with Government, industry must undertake great risks and expenditures to bring new discoveries to the marketplace and that in today's competitive world economy, time-to-market commercialization is a critical factor for successful products. Federal regulations currently require a 3-month notification of the availability of an invention for exclusive licensing in the Federal Register. If a company responds by seeking to license the invention exclusively, another notice requirement follows providing for a 60-day period for filing objections. The prospective licensee is publicly identified along with the invention during this second notice. This built-in delay of at least 5 months, along with public notification that a specific company is seeking the license, is a great disincentive to commercializing on-the-shelf Government inventions.

No such requirements for public notification and filing of objections exist for licensing university patents or patents made by contractor-operated Federal laboratories. In addition, no such restriction applies to companies seeking a CRADA, which now guarantees companies the right to an exclusive field of use license. In all the years that the statutes have been utilized, no evidence has arisen that the universities or contractor-operated laboratories abuse these authorities. The steady increase of university licensing agreements, royalties, commercialized technologies, and economic benefits to the U.S. economy shows that removing such legal impediments is critical to success.

Changing this provision would not only speed the commercialization of billions of dollars of on-the-shelf technologies, it would also allow these discoveries to be effectively included in a CRADA, which is now very difficult to do. These built-in delays fundamentally exacerbate the biggest industry complaint about dealing with the Federal Government as a R&D partner—it simply takes too long to complete a deal. Requiring a half-year delay to receive a license that both parties want to grant makes no sense.

Removing this restriction eliminates the last significant legal roadblock to expediting licensing and commercialization of Federally-funded patents. This should provide an important tool for our economic growth if the agencies apply this new authority aggressively.

While removing language requiring onerous public notification procedures in the current law, it is the intent of the bill that agencies will continue to widely disseminate public notices that inventions are available for licensing. Agencies should approach this in the same manner that they are now providing notice that opportunities for a CRADA are available under the Federal Technology Transfer Act, and universities advertise available licenses under the Bayh-Dole Act.

In providing the appropriate notice of the availability of their technologies for licensing, I would expect that agencies to the greatest possible use of the Internet. Electronic postings provide instantaneous notice that commercial partners are being sought for developing Federal patents. Virtually all Federal laboratories and universities now already use their Internet websites to post such notices. This should be a far more effective advertising tool than mere publication in the Federal Register, especially since most small businesses do not scan the Federal Register looking for new technologies.

Mr. Speaker, the Technology Transfer Commercialization Act streamlines Federal technology licensing procedures by removing the uncertainty and delay associated with the licensing determination process. Removing the roadblocks to the commercialization of Federal research and development by industry has been a goal we, in Congress, have long supported, and I would urge my colleagues to join me in this effort.