

NATIONAL INNOVATION MODERNIZATION BY
LABORATORY EMPOWERMENT ACT

JUNE 27, 2018.—Committed to the Committee of the Whole House on the State of
the Union and ordered to be printed

Mr. SMITH of Texas, from the Committee on Science, Space, and
Technology, submitted the following

R E P O R T

[To accompany H.R. 5907]

[Including cost estimate of the Congressional Budget Office]

The Committee on Science, Space, and Technology, to whom was referred the bill (H.R. 5907) to provide directors of the National Laboratories signature authority for certain agreements, and for other purposes, having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

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COMMITTEE STATEMENT AND VIEWS

PURPOSE AND SUMMARY

The purpose of H.R. 5907, the “the National Innovation Modernization by Laboratory Empowerment (NIMBLE) Act,” is to make

targeted reforms to the relationship between the Department of Energy and its national laboratories. Laboratory directors will receive increased authority to enter into certain cooperative agreements with the private sector.

BACKGROUND AND NEED FOR LEGISLATION

The Department of Energy owns seventeen national laboratories, sixteen of which are federally funded research and development centers. DOE is leading Federal sponsor of research in the physical sciences, and conducts the majority of its basic research utilizing the world-class, open-access user facilities around the country at the DOE national laboratories.

These facilities include the supercomputers, x-ray light sources, photon sources, and neutron sources necessary to conduct groundbreaking basic research, and host approximately 30,000 researchers annually from around the world. The national labs also provide a unique opportunity for collaboration with the private sector through cooperative research agreements. This partnership supports the Department's mission and maintain American leadership in technology development, but ensures the labs focus on the basic and early-stage research that provides the foundation for the private sector to advance new technologies.

However, burdensome oversight or reporting requirements can limit the ability of the national labs to quickly partner with private sector entities to support technology transfer and innovation. A bipartisan report issued by the Information Technology and Innovation Foundation, the Center for American Progress, and the Heritage Foundation in June 2013 entitled "Turning the Page: Reimagining the National Labs in the 21st Century Innovation Economy," recommended shifting responsibility of the management of day to day transactions of the lab to the lab directors, with Department oversight provided through the performance plan identified in the Management and Operating (M&O) contract.

The Commission to Review the Effectiveness of the National Energy Laboratories (CRENEL) echoed this approach in their final report issued in October 2015, "Securing America's Future: Realizing the Potential of the Department of Energy's National Laboratories." Members of the Commission recommended that within the framework of a high-level annual operating plan, like the Office of Science labs Performance and Evaluation and Measurement Plan (PEMP), "DOE should provide increased flexibility and authority to the laboratory to implement that plan."

This legislation establishes a clear mechanism for carrying out this recommendation, by directing the Department to provide "signature authority" to national lab directors to approve entering into agreements with the private sector that are valued under \$1,000,000.

LEGISLATIVE HISTORY

On February 25, 2015, the Full Committee held a hearing entitled, "An Overview of the Budget Proposal for the Department of Energy for Fiscal Year 2016." The purpose of this hearing was to examine the Department of Energy's science and technology priorities and their impact on the allocation of funding within the Department's research, development, demonstration, and commer-

cialization activities. The witness was The Honorable Ernest Moniz, Secretary, U.S. Department of Energy.

On November 18, 2015, the Energy Subcommittee held a hearing titled, “Recommendations of the Commission to Review the Effectiveness of the National Energy Laboratories.” Witnesses were: Mr. TJ Glauthier, Co-Chair, Commission to Review the Effectiveness of the National Energy Laboratories; Dr. Jared L. Cohon, Co-Chair, Commission to Review the Effectiveness of the National Energy Laboratories; Dr. Peter Littlewood, Director, Argonne National Laboratory.

On March 22, 2016, the Committee held a hearing titled, “An Overview of the Budget Proposal for the Department of Energy for Fiscal Year 2017.” The witness was The Honorable Ernest Moniz, Secretary of Energy, U.S. Department of Energy.

On January 24, 2017, H.R. 589, the Department of Energy Research and Innovation Act, which includes management reform to improve the efficiency of the DOE national laboratories, passed the House without amendment.

On July 19, 2017, the Committee held a hearing titled, “Energy Innovation: Letting Technology Lead.” Witnesses were: Dr. Jacob DeWitte, President and CEO, Oklo; Dr. Gaurav N. Sant, Associate Professor and Henry Samueli Fellow, Department of Civil and Environmental Engineering, Henry Samueli School of Engineering and Applied Science, University of California, Los Angeles; Dr. Venky Narayanamurti, Benjamin Peirce Research Professor of Technology and Public Policy, John A. Paulson School of Engineering and Applied Science, Harvard University; Mr. Kiran Kumaraswamy, Market Development Director, AES Energy Storage.

On January 30, 2018, the Committee held a hearing titled, “Department of Energy: Management and Priorities.” Witnesses were the Honorable Paul Dabbar, Under Secretary for Science, U.S. Department of Energy, and the Honorable Mark Menezes, Under Secretary of Energy, U.S. Department of Energy.

On March 13, 2018, the Committee held a hearing titled, “National Laboratories: World-Leading Innovation in Science.” Witnesses were Dr. Mark Peters, the Director of Idaho National Laboratory, Dr. Susan Seestrom, the Advanced Science and Technology Associate Laboratory Director and Chief Research Officer at Sandia National Laboratory, Dr. Mary E. Maxon, the Associate Laboratory Director for Biosciences at Lawrence Berkeley National Laboratory, Dr. Chi-Chang Kao, the Director of Stanford Linear Accelerator Center, National Accelerator Laboratory, and Dr. Paul Kearns, the Director of Argonne National Laboratory.

On May 9, 2018, the Committee held a hearing titled, “An Overview of the Budget Proposal for the Department of Energy for Fiscal Year 2019.” The witness was The Honorable Rick Perry, Secretary, U.S. Department of Energy.

On May 22, 2018, Rep. Randy Hultgren introduced H.R. 5907, which was referred solely to the Committee.

On May 23, 2018, the Committee approved and ordered reported H.R. 5907 by voice vote.

COMMITTEE VIEWS

The Committee is concerned that institutional inefficiencies between the Department of Energy and its laboratories, including burdensome transactional oversight by the Department, harm laboratories' productivity with respect to cooperative research and development with the private sector and technology transfer.

The Committee finds that the laboratories provide unique capabilities for the progress of science and technology, but have been prevented from achieving their potential due to bureaucratic restrictions inconsistent with the intent of the government-owned, contractor-operated model. The Committee concurs with the recommendation of the CRENEL report to reduce DOE management of day to day activities of the national labs in order to increase cooperation with the private sector, and supports the Department's ongoing effort to increase the effectiveness of the national laboratories.

However, the Committee finds that legislation is necessary to ensure the implementation of a clear mechanism to empower national lab directors, while also maintaining the appropriate management structure for a government owned, contractor operated facility.

SECTION-BY-SECTION

Sec. 1. Short title

National Innovation Modernization by Laboratory Empowerment (NIMBLE) Act.

Sec. 2. Definitions

Section 2 provides relevant definitions.

Sec. 3. Public-private partnerships for commercialization

Section 3 authorizes the Secretary to delegate to the directors of the National Laboratories signature authority to certain agreements in which the total cost is less than \$1,000,000, while also ensuring that it does not compromise any national security, economic, or environmental interest of the United States.

Sec. 4. Savings clause

Section 4 states that nothing in this Act or any amendment abrogates or otherwise affects the primary responsibilities of any National Laboratory to the Department of Energy.

EXPLANATION OF AMENDMENTS

There were no amendments to this bill.

COMMITTEE CONSIDERATION

On May 23, 2018, the Committee met in open session and ordered reported favorably the bill, H.R. 5907, by voice vote, a quorum being present.

APPLICATION OF LAW TO THE LEGISLATIVE BRANCH

Section 102(b)(3) of Public Law 104-1 requires a description of the application of this bill to the legislative branch where the bill

relates to the terms and conditions of employment or access to public services and accommodations. This bill provides for technological innovation through the prioritization of Federal investment in basic research and fundamental scientific discovery through the upgrade of key user facilities at DOE. As such, this bill does not relate to employment or access to public services and accommodations.

STATEMENT OF OVERSIGHT FINDINGS AND RECOMMENDATIONS OF THE COMMITTEE

In compliance with clause 3(c)(1) of rule XIII and clause (2)(b)(1) of rule X of the Rules of the House of Representatives, the Committee's oversight findings and recommendations are reflected in the descriptive portions of this report.

STATEMENT OF GENERAL PERFORMANCE GOALS AND OBJECTIVES

H.R. 5907 provides authority for laboratory directors to enter into certain cooperative agreements with the private sector.

DUPLICATION OF FEDERAL PROGRAMS

No provision of H.R. 5907 establishes or reauthorizes a program of the Federal Government known to be duplicative of another Federal program, a program that was included in any report from the Government Accountability Office to Congress pursuant to section 21 of Public Law 111-139, or a program related to a program identified in the most recent Catalog of Federal Domestic Assistance.

DISCLOSURE OF DIRECTED RULE MAKINGS

The Committee estimates that enacting H.R. 5907 does not direct the completion of any specific rule makings within the meaning of 5 U.S.C. 551.

FEDERAL ADVISORY COMMITTEE ACT

The Committee finds that the legislation does not establish or authorize the establishment of an advisory committee within the definition of 5 U.S.C. App., Section 5(b).

UNFUNDED MANDATE STATEMENT

Section 423 of the Congressional Budget and Impoundment Control Act (as amended by Section 101(a)(2) of the Unfunded Mandate Reform Act, P.L. 104-4) requires a statement as to whether the provisions of the reported include unfunded mandates. In compliance with this requirement the Committee has received a letter from the Congressional Budget Office included herein.

EARMARK IDENTIFICATION

H.R. 5907 does not include any congressional earmarks, limited tax benefits, or limited tariff benefits as defined in clause 9 of Rule XXI.

COMMITTEE ESTIMATE

Clause 3(d)(2) of rule XIII of the Rules of the House of Representatives requires an estimate and a comparison by the Committee of the costs that would be incurred in carrying out H.R. 5907. However, clause 3(d)(3)(B) of that rule provides that this requirement does not apply when the Committee has included in its report a timely submitted cost estimate of the bill prepared by the Director of the Congressional Budget Office under section 402 of the Congressional Budget Act.

BUDGET AUTHORITY AND CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

With respect to the requirements of clause 3(c)(2) of rule XIII of the Rules of the House of Representatives and section 308(a) of the Congressional Budget Act of 1974 and with respect to requirements of clause (3)(c)(3) of rule XIII of the Rules of the House of Representatives and section 402 of the Congressional Budget Act of 1974, the Committee has received the following cost estimate for H.R. 5907 from the Director of Congressional Budget Office:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, June 22, 2018.

Hon. LAMAR SMITH,
*Chairman, Committee on Science, Space, and Technology,
House of Representatives, Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 5907, the NIMBLE Act.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Janani Shankaran.

Sincerely,

KEITH HALL,
Director.

Enclosure.

H.R. 5907—NIMBLE Act

H.R. 5907 would authorize the directors of the Department of Energy's (DOE's) national laboratories to enter into certain agreements with third parties without prior approval if the agreements are valued at less than \$1 million.

Under current law, the agreements that would be affected by the bill require the directors of the national laboratories to obtain insurance for any contract that creates a partnership with a third party. In certain situations, the federal government may reimburse directors for the cost of liabilities that are not covered by insurance. CBO expects that implementing the bill would increase the number of such agreements between the national laboratories and third parties, thereby increasing DOE's potential reimbursement payments to lab directors.

In the past, those reimbursements have been made with funds from the Department of Energy's existing appropriations. Based on information about the size and probability of such payments in the past, CBO estimates that implementing H.R. 5907 would cost less

than \$500,000 over the 2019–2023 period and would be subject to the availability of appropriated funds.

Enacting H.R. 5907 could affect direct spending; therefore, pay-as-you-go procedures apply. Under current law, the national laboratories are prohibited from charging third parties fees in excess of cost recovery when entering into covered agreements. The bill would permit them to charge rates higher than for cost recovery and to spend any additional collections (collections are recorded in the budget as reductions in direct spending) for research and development activities at the laboratories without further appropriation. CBO expects that any additional collections resulting from those higher rates would be offset by an expenditure soon thereafter. Thus, CBO estimates that the net effect on direct spending would be negligible. Enacting the bill would not affect revenues.

CBO estimates that enacting H.R. 5907 would not increase net direct spending or on-budget deficits in any of the four consecutive 10-year periods beginning in 2029.

H.R. 5907 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act.

The CBO staff contact for this estimate is Janani Shankaran. The estimate was reviewed by H. Samuel Papenfuss, Deputy Assistant Director for Budget Analysis.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, and existing law in which no change is proposed is shown in roman):

STEVENSON-WYDLER TECHNOLOGY INNOVATION ACT OF 1980

* * * * *

SEC. 12. COOPERATIVE RESEARCH AND DEVELOPMENT AGREEMENTS.

(a) GENERAL AUTHORITY.—**[Each Federal agency]**

(1) IN GENERAL.—Except as provided in paragraph (2), each Federal agency may permit the director of any of its Government-operated Federal laboratories, and, to the extent provided in an agency-approved joint work statement or, if permitted by the agency, in an agency-approved annual strategic plan, contractor-operated laboratories—

[(1)] *(A) to enter into cooperative research and development agreements on behalf of such agency (subject to subsection (c) of this section) with other Federal agencies; units of State or local government; industrial organizations (including corporations, partnerships, and limited partnerships, and industrial development organizations); public and private foundations; nonprofit organizations (including universities); or other persons (including licensees of inventions owned by the Federal agency); and*

[(2)] *(B) to negotiate licensing agreements under section 207 of title 35, United States Code, or under other authori-*

ties (in the case of a Government-owned, contractor-operated laboratory, subject to subsection (c) of this section) for inventions made or other intellectual property developed at the laboratory and other inventions or other intellectual property that may be voluntarily assigned to the Government.

(2) *EXCEPTION.*—*Notwithstanding paragraph (1), in accordance with section 3(a) of the NIMBLE Act, approval by the Secretary of Energy shall not be required for any technology transfer agreement proposed to be entered into by a National Laboratory of the Department of Energy, the total cost of which (including the National Laboratory contributions and project recipient cost share) is less than \$1,000,000.*

(b) *ENUMERATED AUTHORITY.*—(1) Under an agreement entered into pursuant to **subsection (a)(1)** *subsection (a)(1)(A)*, the laboratory may grant, or agree to grant in advance, to a collaborating party patent licenses or assignments, or options thereto, in any invention made in whole or in part by a laboratory employee under the agreement, or, subject to section 209 of title 35, United States Code, may grant a license to an invention which is federally owned, for which a patent application was filed before the signing of the agreement, and directly within the scope of the work under the agreement, for reasonable compensation when appropriate. The laboratory shall ensure, through such agreement, that the collaborating party has the option to choose an exclusive license for a pre-negotiated field of use for any such invention under the agreement or, if there is more than one collaborating party, that the collaborating parties are offered the option to hold licensing rights that collectively encompass the rights that would be held under such an exclusive license by one party. In consideration for the Government's contribution under the agreement, grants under this paragraph shall be subject to the following explicit conditions:

(A) A nonexclusive, nontransferable, irrevocable, paid-up license from the collaborating party to the laboratory to practice the invention or have the invention practiced throughout the world by or on behalf of the Government. In the exercise of such license, the Government shall not publicly disclose trade secrets or commercial or financial information that is privileged or confidential within the meaning of section 552(b)(4) of title 5, United States Code, or which would be considered as such if it had been obtained from a non-Federal party.

(B) If a laboratory assigns title or grants an exclusive license to such an invention, the Government shall retain the right—

(i) to require the collaborating party to grant to a responsible applicant a nonexclusive, partially exclusive, or exclusive license to use the invention in the applicant's licensed field of use, on terms that are reasonable under the circumstances; or

(ii) if the collaborating party fails to grant such a license, to grant the license itself.

(C) The Government may exercise its right retained under subparagraph (B) only in exceptional circumstances and only if the Government determines that—

(i) the action is necessary to meet health or safety needs that are not reasonably satisfied by the collaborating party;

(ii) the action is necessary to meet requirements for public use specified by Federal regulations, and such requirements are not reasonably satisfied by the collaborating party; or

(iii) the collaborating party has failed to comply with an agreement containing provisions described in subsection (c)(4)(B).

This determination is subject to administrative appeal and judicial review under section 203(2) of title 35, United States Code.

(2) Under agreements entered into pursuant to **subsection (a)(1)** *subsection (a)(1)(A)*, the laboratory shall ensure that a collaborating party may retain title to any invention made solely by its employee in exchange for normally granting the Government a nonexclusive, nontransferable, irrevocable, paid-up license to practice the invention or have the invention practiced throughout the world by or on behalf of the Government for research or other Government purposes.

(3) Under an agreement entered into pursuant to **subsection (a)(1)** *subsection (a)(1)(A)*, a laboratory may—

(A) accept, retain, and use funds, personnel, services, and property from a collaborating party and provide personnel, services, and property to a collaborating party;

(B) use funds received from a collaborating party in accordance with subparagraph (A) to hire personnel to carry out the agreement who will not be subject to full-time-equivalent restrictions of the agency;

(C) to the extent consistent with any applicable agency requirements or standards of conduct, permit an employee or former employee of the laboratory to participate in an effort to commercialize an invention made by the employee or former employee while in the employment or service of the Government; and

(D) waive, subject to reservation by the Government of a nonexclusive, irrevocable, paid-up license to practice the invention or have the invention practiced throughout the world by or on behalf of the Government, in advance, in whole or in part, any right of ownership which the Federal Government may have to any subject invention made under the agreement by a collaborating party or employee of a collaborating party.

(4) A collaborating party in an exclusive license in any invention made under an agreement entered into pursuant to **subsection (a)(1)** *subsection (a)(1)(A)* shall have the right of enforcement under chapter 29 of title 35, United States Code.

(5) A Government-owned, contractor-operated laboratory that enters into a cooperative research and development agreement pursuant to **subsection (a)(1)** *subsection (a)(1)(A)* may use or obligate royalties or other income accruing to the laboratory under such agreement with respect to any invention only—

(A) for payments to inventors;

(B) for purposes described in clauses (i), (ii), (iii), and (iv) of section 14(a)(1)(B); and

(C) for scientific research and development consistent with the research and development missions and objectives of the laboratory.

(6)(A) In the case of a laboratory that is part of the National Nuclear Security Administration, a designated official of that Administration may waive any license retained by the Government under paragraph (1)(A), (2), or (3)(D), in whole or in part and according to negotiated terms and conditions, if the designated official finds that the retention of the license by the Government would substantially inhibit the commercialization of an invention that would otherwise serve an important national security mission.

(B) The authority to grant a waiver under subparagraph (A) shall expire on the date that is five years after the date of the enactment of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001. The expiration under the preceding sentence of authority to grant a waiver under subparagraph (A) shall not affect any waiver granted under that subparagraph before the expiration of such authority.

(C) Not later than February 15 of each year, the Administrator for Nuclear Security shall submit to Congress a report on any waivers granted under this paragraph during the preceding year.

(c) CONTRACT CONSIDERATIONS.—(1) A Federal agency may issue regulations on suitable procedures for implementing the provisions of this section; however, implementation of this section shall not be delayed until issuance of such regulations.

(2) The agency in permitting a Federal laboratory to enter into agreements under this section shall be guided by the purposes of this Act.

(3)(A) Any agency using the authority given it under subsection (a) shall review standards of conduct for its employees for resolving potential conflicts of interest to make sure they adequately establish guidelines for situations likely to arise through the use of this authority, including but not limited to cases where present or former employees or their partners negotiate licenses or assignments of titles to inventions or negotiate cooperative research and development agreements with federal agencies (including the agency with which the employee involved is or was formerly employed).

(B) If, in implementing subparagraph (A), an agency is unable to resolve potential conflicts of interest within its current statutory framework, it shall propose necessary statutory changes to be forwarded to its authorizing committees in Congress.

(4) The laboratory director in deciding what cooperative research and development agreements to enter into shall—

(A) give special consideration to small business firms, and consortia involving small business firms; and

(B) give preference to business units located in the United States which agree that products embodying inventions made under the cooperative research and development agreement or produced through the use of such inventions will be manufactured substantially in the United States and, in the case of any industrial organization or other person subject to the control of a foreign company or government, as appropriate, take into consideration whether or not such foreign government permits United States agencies, organizations, or other persons to

enter into cooperative research and development agreements and licensing agreements.

(5)(A) If the head of the agency or his designee desires an opportunity to disapprove or require the modification of any such agreement presented by the director of a Government-operated laboratory, the agreement shall provide a 30-day period within which such action must be taken beginning on the date the agreement is presented to him or her by the head of the laboratory concerned.

(B) In any case in which the head of an agency or his designee disapproves or requires the modification of an agreement presented by the director of a Government-operated laboratory under this section, the head of the agency or such designee shall transmit a written explanation of such disapproval or modification to the head of the laboratory concerned.

(C)(i) Any non-Federal entity that operates a laboratory pursuant to a contract with a Federal agency shall submit to the agency any cooperative research and development agreement that the entity proposes to enter into and the joint work statement if required with respect to that agreement.

(ii) A Federal agency that receives a proposed agreement and joint work statement under clause (i) shall review and approve, request specific modifications to, or disapprove the proposed agreement and joint work statement within 30 days after such submission. No agreement may be entered into by a Government-owned, contractor-operated laboratory under this section before both approval of the agreement and approval of a joint work statement under this clause.

(iii) In any case in which an agency which has contracted with an entity referred to in clause (i) disapproves or requests the modification of a cooperative research and development agreement or joint work statement submitted under that clause, the agency shall transmit a written explanation of such disapproval or modification to the head of the laboratory concerned.

(iv) Any agency that has contracted with a non-Federal entity to operate a laboratory may develop and provide to such laboratory one or more model cooperative research and development agreements for purposes of standardizing practices and procedures, resolving common legal issues, and enabling review of cooperative research and development agreements to be carried out in a routine and prompt manner.

(v) A Federal agency may waive the requirements of clause (i) or (ii) under such circumstances as the agency considers appropriate.

(6) Each agency shall maintain a record of all agreements entered into under this section.

(7)(A) No trade secrets or commercial or financial information that is privileged or confidential, under the meaning of section 552(b)(4) of title 5, United States Code, which is obtained in the conduct of research or as a result of activities under this Act from a non-Federal party participating in a cooperative research and development agreement shall be disclosed.

(B) The director, or in the case of a contractor-operated laboratory, the agency, for a period of up to 5 years after development of information that results from research and development activities conducted under this Act and that would be a trade secret or commercial or financial information that is privileged or confiden-

tial if the information had been obtained from a non-Federal party participating in a cooperative research and development agreement, may provide appropriate protections against the dissemination of such information, including exemption from subchapter II of chapter 5 of title 5, United States Code.

(d) DEFINITION.—As used in this section—

(1) the term “cooperative research and development agreement” means any agreement between one or more Federal laboratories and one or more non-Federal parties under which the Government, through its laboratories, provides personnel, services, facilities, equipment, intellectual property, or other resources with or without reimbursement (but not funds to non-Federal parties) and the non-Federal parties provide funds, personnel, services, facilities, equipment, intellectual property, or other resources toward the conduct of specified research or development efforts which are consistent with the missions of the laboratory; except that such term does not include a procurement contract or cooperative agreement as those terms are used in sections 6303, 6304, and 6305 of title 31, United States Code;

(2) the term “laboratory” means—

(A) a facility or group of facilities owned, leased, or otherwise used by a Federal agency, a substantial purpose of which is the performance of research, development, or engineering by employees of the Federal Government;

(B) a group of Government-owned, contractor-operated facilities (including a weapon production facility of the Department of Energy) under a common contract, when a substantial purpose of the contract is the performance of research and development, or the production, maintenance, testing, or dismantlement of a nuclear weapon or its components, for the Federal Government; and

(C) a Government-owned, contractor-operated facility (including a weapon production facility of the Department of Energy) that is not under a common contract described in subparagraph (B), and the primary purpose of which is the performance of research and development, or the production, maintenance, testing, or dismantlement of a nuclear weapon or its components, for the Federal Government,

but such term does not include any facility covered by Executive Order No. 12344, dated February 1, 1982, pertaining to the naval nuclear propulsion program;

(3) the term “joint work statement” means a proposal prepared for a Federal agency by the director of a Government-owned, contractor-operated laboratory describing the purpose and scope of a proposed cooperative research and development agreement, and assigning rights and responsibilities among the agency, the laboratory, and any other party or parties to the proposed agreement; and

(4) the term “weapon production facility of the Department of Energy” means a facility under the control or jurisdiction of the Secretary of Energy that is operated for national security purposes and is engaged in the production, maintenance, testing, or dismantlement of a nuclear weapon or its components.

(e) DETERMINATION OF LABORATORY MISSIONS.—For purposes of this section, an agency shall make separate determinations of the mission or missions of each of its laboratories.

(f) RELATIONSHIP TO OTHER LAWS.—Nothing in this section is intended to limit or diminish existing authorities of any agency.

(g) PRINCIPLES.—In implementing this section, each agency which has contracted with a non-Federal entity to operate a laboratory shall be guided by the following principles:

(1) The implementation shall advance program missions at the laboratory, including any national security mission.

(2) Classified information and unclassified sensitive information protected by law, regulation, or Executive order shall be appropriately safeguarded.

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