

118TH CONGRESS
2D SESSION

S. 3569

To require the Comptroller General of the United States to submit a report on the disclosure process for intellectual property created under a Federal grant, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JANUARY 10, 2024

Mr. TILLIS introduced the following bill; which was read twice and referred to the Committee on the Judiciary

A BILL

To require the Comptroller General of the United States to submit a report on the disclosure process for intellectual property created under a Federal grant, 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 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Improving Efficiency
5 to Increase Competition Act”.

1 **SEC. 2. GAO STUDY ON THE IMPACT OF BAYH-DOLE ACT**
2 **REGULATIONS ON CONTRACTORS IN THE**
3 **UNITED STATES.**

4 (a) DEFINITIONS.—In this section:

5 (1) ABILITY.—The term “ability” means time,
6 resources, staff, and any other metric determined
7 necessary for compliance under the contract require-
8 ments described in chapter 18 of title 35, United
9 States Code, including any regulation issued under
10 that chapter.

11 (2) CONTRACTOR; FEDERAL AGENCY; FUNDING
12 AGREEMENT.—The terms “contractor”, “Federal
13 agency”, and “funding agreement” have the mean-
14 ings given those terms in section 201 of title 35,
15 United States Code.

16 (3) INSTITUTION OF HIGHER EDUCATION.—The
17 term “institution of higher education” has the
18 meaning given the term in section 101(a) of the
19 Higher Education Act of 1965 (20 U.S.C. 1001(a)).

20 (4) RELEVANT COMMITTEES.—The term “rel-
21 evant committees” means the following:

22 (A) The Committee on the Judiciary of the
23 Senate.

24 (B) The Committee on Commerce, Science,
25 and Transportation of the Senate.

1 (C) The Committee on Health, Education,
2 Labor, and Pensions of the Senate.

3 (D) The Committee on the Judiciary of the
4 House of Representatives.

5 (E) The Committee on Science, Space, and
6 Technology of the House of Representatives.

7 (F) The Committee on Education and the
8 Workforce of the House of Representatives.

9 (b) REPORT REQUIRED.—

10 (1) IN GENERAL.—Not later than 180 days
11 after the date of enactment of this Act, the Comp-
12 troller General of the United States shall brief the
13 relevant committees, with a report to follow on a
14 mutually agreed upon date that is not later than 1
15 year after the date of enactment of this Act, regard-
16 ing the implementation of chapter 18 of title 35,
17 United States Code (commonly referred to as the
18 “Bayh-Dole Act”), specifically with respect to the
19 requirements under that chapter, and the regula-
20 tions implementing that chapter, that a contractor
21 under a funding agreement with a Federal agency
22 must follow with respect to patent disclosure.

23 (2) CONTENTS.—The report required under
24 paragraph (1) shall include, to the extent prac-
25 ticable, information on the following:

1 (A) The percentage of inventions, as de-
2 fined in section 201 of title 35, United States
3 Code, that are not elected by contractors to re-
4 tain within the time period provided following
5 the disclosure of an invention under part 401 of
6 title 37, Code of Federal Regulations, or any
7 successor regulations.

8 (B) After any automatic extension of time
9 has been granted under section 401.14 of title
10 37, Code of Federal Regulations, or any suc-
11 cessor regulation, and in a case in which a con-
12 tractor requests an additional extension—

13 (i) the number of such extensions that
14 are granted by Federal agencies for disclo-
15 sure, election, and filing under that sec-
16 tion; and

17 (ii) the average response time by each
18 Federal agency for such an extension.

19 (C) How the reporting requirements under
20 chapter 18 of title 35, United States Code, im-
21 pact the ability of a contractor to compete with
22 foreign competitors.

23 (D) How the Federal Government uses
24 Federal reporting under chapter 18 of title 35,
25 United States Code, by contractors and sug-

gested improvements to ensure there is an improved public-private partnership.

(E) Barriers that Federal reporting requirements under chapter 18 of title 35, United States Code, create for contractors to develop inventions, as defined in section 201 of title 35, United States Code.

(F) The time and effort institutions of higher education must use for the management and reporting required under chapter 18 of title 35, United States Code, including—

(i) input from contractors with various sizes, budgets, geographical positions, and specialties;

(ii) with respect to any institution of higher education included in the report, a consideration of the specific research designations for that institution, including whether the institution is classified as an R1 or R2 doctoral university, according to the Carnegie Classification of Institutions of Higher Education framework; and

(iii) how such contractors vary on their ability to efficiently comply with the requirements under that chapter.

1 (G) Difficulties contractors encounter in
2 using the patent reporting system deployed by
3 the National Institute of Standards and Tech-
4 nology (commonly known as, and referred to in
5 this paragraph as, “iEdison”) and rec-
6 ommendations to address those difficulties.

7 (H) If any other Federal agency does not
8 use iEdison, whether that Federal agency—

9 (i) would benefit from using a sin-
10 gular standard Federal reporting system;
11 and

12 (ii) can effectively standardize report-
13 ing requirements in order to streamline
14 processes required by contractors.

15 (I) The number of disclosure systems used
16 throughout the Federal Government, listed by
17 which system is used by each Federal agency,
18 and the various disclosure requirements made
19 by each such Federal agency.

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