



Department of Energy Policy Threatens Intellectual Property Rights in Colorado

BY DAN POWERS

Colorado's emergence as a technological powerhouse hit new heights last year with a CHIPS and Science Act award of \$90 million—a federal investment that will draw millions more to semiconductor manufacturing in our state.¹ The award is a savvy investment in our high-performing tech ecosystem, in which universities, federal labs, startups, and industry work together to drive innovation.

A key to this investment is the intentional way that intellectual property rights will be assigned to various partners to ensure maximum participation and impact.

Surprisingly, in December 2024, the US Department of Energy made an announcement

that threatens this proven model of success. Regarding nuclear technologies that benefit from federal funding, a new policy states that technology be made “freely available to the public with few or no intellectual property restrictions.”² This directive, which could be extended beyond nuclear power, undermines a principle that has driven American innovation for decades: that universities, federal labs, and similar research institutions should get to own and license patents on their discoveries.

The Department of Energy's move will hinder American innovation. Additionally, from the National Institute of Standards and Technology's (NIST) march-in framework to the National Science Foundation's proposed intellectual

property options, CO-LABS³ is concerned there is a growing theme to dismantle a system that works—and works particularly well in Colorado.

Our current, successful system for bringing new inventions to market stems from the Bayh-Dole Act of 1980, which gave research institutions the right to own and license their federally funded discoveries.⁴ This simple framework aligns everyone's interests: scientists pursue breakthroughs, institutions earn money from licensing patents to fund further research, and companies take the financial risks required to transform lab discoveries into real-world products.

The model reversed decades of stagnation, in which patents for government-funded inventions

simply gathered dust because no company would invest in technologies without secure intellectual property.⁵

The Department of Energy's memo on nuclear technologies undermines the patent protections needed to bring promising developments in nuclear science that affect medicine, energy, and defense to market.

The agency seems to believe, erroneously, that terminating intellectual property rights will somehow benefit society. In fact, doing so will eliminate private investment in these technologies, ensuring that they never become widespread. For context, venture funding in the Denver-Boulder region hit roughly \$5.5 billion last year, more than double the 2020 amount.⁶

The benefits of robust intellectual property rights extend far beyond economics. When COVID-19 hit, Colorado State University's Infectious Disease Research Center quickly pivoted to develop SolaVAX, a promising vaccine technology that drew \$3.1 million in National Institutes of Health funding.⁷

Supporting federally funded research is also critical to strengthening national security. While quantum computing researchers at NIST in Boulder race to stay ahead of Chinese competitors, policies that protect intellectual property assure innovators that their high-risk efforts can pay off with real-world impact.

For our most cutting-edge industries to continue to thrive, our political leaders must act. We need to fund domestic inventors and research institutions, while safeguarding their intellectual property rights.

The new administration should avoid policies that weaken the Bayh-Dole system. With global competition intensifying in everything from quantum computing to clean energy, we can't afford to handicap our country's most advanced research. 

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Dan Powers is the executive director of CO-LABS, which is a 501(c)3 nonprofit, non-partisan consortium of federally funded scientific laboratories, research universities and colleges, business leaders, and economic development experts. A version of this article was published in *The Colorado Sun* on June 6, 2025.

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NOTES

1. Toomer, "Colorado Springs Microchip Facility Could See a \$90M Federal Investment," Colorado Newsline (Jan. 4, 2024), <https://coloradonewsline.com/2024/01/04/colorado-springs-microchip-federal-investment>.

2. Goff, "Policy Guidance—Commercialization Preference for NE-Funded Technologies," Department of Energy (Dec. 6, 2024), <https://ipwatchdog.com/wp-content/uploads/2025/02/DOE-Letter-12-06-24.pdf>.

3. Established in 2007, CO-LABS is a scientific nonprofit that is funded through membership and event sponsorship. The CO-LABS consortium includes Colorado federal research laboratories, research universities, state and local governments, economic development organizations, private businesses, and nonprofit organizations. <https://www.co-labs.org/about>.

4. USC Title 35—Patents, <https://www.govinfo.gov/content/pkg/USCODE-2011-title35/html/USCODE-2011-title35-partII-chap18.htm>.

5. US General Accounting Office, *GAO Report to Congressional Committees* (May 1998), <https://www.gao.gov/assets/rced-98-126.pdf#page=5>.

6. Vartabedian, "Colorado Emerges as a Venture-Capital Hub," *Wall St. J.* (Mar. 14, 2022), <https://www.wsj.com/articles/colorado-emerges-as-a-venture-capital-hub-11647252000>.

7. "CSU Secures \$3.1 Million From NIH to Advance SolaVAX Coronavirus Vaccine Research," Colorado State University News and Media Relations (Sept. 21, 2020), <https://newsmediarelations.colostate.edu/2020/09/21/csu-secures-3-1-million-from-nih-to-advance-solavax-coronavirus-vaccine-research>.

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