

AN ACT

RELATING TO PATENTS AND COPYRIGHTS; PROVIDING FOR STATE OWNERSHIP OF PATENTS OR COPYRIGHTS FOR MATERIALS OR WORKS DEVELOPED BY STATE EMPLOYEES; REQUIRING THE ECONOMIC DEVELOPMENT DEPARTMENT TO PROMULGATE RULES; ENACTING SECTIONS OF THE NMSA 1978; CREATING A FUND.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. A new Section 57-3C-1 NMSA 1978 is enacted to read:

"57-3C-1. SHORT TITLE. --This act may be cited as the "Patent and Copyright Act". "

Section 2. A new Section 57-3C-2 NMSA 1978 is enacted to read:

"57-3C-2. DEFINITIONS. --As used in the Patent and Copyright Act:

A. "department" means the economic development department;

B. "patent" means the grant of certain property rights in an invention, as defined in federal patent laws, to an inventor that includes the right to exclude others from making, using, offering for sale, selling or importing the invention; and

C. "copyright" means the property rights, as defined in federal copyright laws, in original works of

authorship. "

Section 3. A new Section 57-3C-3 NMSA 1978 is enacted to read:

"57-3C-3. PATENTS AND COPYRIGHTS AS STATE PROPERTY EXCEPTION. --

A. Inventions, innovations, works of authorship and their associated materials that are developed by a state employee, except an employee of a state educational institution, within the scope of his employment or when using state-owned or state-controlled facilities or equipment are the property of the state.

B. The provisions of Subsection A of this section do not apply to a state employee employed by a state educational institution designated in Article 12, Section 11 of the constitution of New Mexico."

Section 4. A new Section 57-3C-4 NMSA 1978 is enacted to read:

"57-3C-4. ADMINISTRATION OF ACT. --The department shall:

A. be responsible for the administration of the Patent and Copyright Act;

B. promulgate rules pursuant to the Patent and Copyright Act;

C. apply, on behalf of the state, for the patent protection or registration of copyright and pay the

associated expenses;

D. share with the inventor, after expenses, fifty percent of the income collected on the invention or work; and

E. determine, after a cost-benefit analysis, whether to retain the patent or copyright for the state."

Section 5. A new Section 57-3C-5 NMSA 1978 is enacted to read:

"57-3C-5. FUND CREATED.--The "patent and copyright fund" is created in the state treasury. Income received by the state pursuant to the Patent and Copyright Act shall be deposited in the patent and copyright fund. Money in the patent and copyright fund is appropriated to the economic development department to carry out the provisions of the Patent and Copyright Act. Any unexpended or unencumbered balance remaining in the fund at the end of a fiscal year shall not revert to the general fund." _____