Public Law 100-519
100th Congress

An Act

To authorize appropriations to the Secretary of Commerce for the programs of the National Bureau of Standards for fiscal year 1989, and for other purposes.

Oct. 24, 1988
[H.R. 4417]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE I—NATIONAL INSTITUTE OF STANDARDS AND TECHNOLOGY AUTHORIZATION

National Institute of Standards and Technology Authorization Act for Fiscal Year 1989.

SECTION 101. SHORT TITLE.

This title may be cited as the "National Institute of Standards and Technology Authorization Act for Fiscal Year 1989".

SEC. 102. AUTHORIZATIONS FOR PROGRAM ACTIVITIES.

(a) AUTHORIZATIONS.—There are authorized to be appropriated to the Secretary of Commerce (hereafter in this Act referred to as the "Secretary"), for fiscal year 1989, to carry out activities performed by the National Institute of Standards and Technology, the sums set forth in the following line items:

(1) Measurement Research and Standards, $43,220,000.

(2) Materials Science and Engineering, $24,054,000.

(3) Engineering Measurements and Standards, $49,098,000.

(4) Computer Science and Technology, $11,000,000.

(5) Research Support Activities, $20,867,000.

(6) Cold Neutron Source Facility, $6,500,000 (for a total authorization of $19,500,000).

(7) Technology Services, $3,300,000.

(b) LIMITATIONS.—Notwithstanding any other provision of this or any other Act—

(1) of the total of the amounts authorized under subsection (a), $2,000,000 is authorized only for steel technology;

(2) of the total amount authorized under paragraph (3) of subsection (a)—

(A) $4,000,000 is authorized only for the Center for Building Technology, and

(B) $6,000,000 is authorized only for the Center for Fire Research,

and the two Centers shall not be merged;

(3) of the total amount authorized under paragraph (5) of subsection (a), $7,500,000 is authorized only for the technical competence fund; and

(4) of the amount authorized under paragraph (7) of subsection (a)—

AUTHENTICATED
U.S. GOVERNMENT
INFORMATION
GPO

(A) $3,000,000 is authorized only for the support of Regional Centers for the Transfer of Manufacturing Technology, and Assistance to State Technology Programs;

(B) $300,000 is authorized only for the evaluation of non-energy-related inventions and related technology extension activities; and

(C) funds authorized under subparagraph (A) shall be used only to award, amend, or renew research cooperative agreements entered into pursuant to the competitive process established by the National Bureau of Standards for this program (53 Fed. Reg. 27060; July 18, 1988).

(c) TRANSFERS.—(1) Funds may be transferred among the line items listed in subsection (a), so long as the net funds transferred to or from any line item do not exceed 10 percent of the amount authorized for that line item in such subsection and the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Science, Space, and Technology of the House of Representatives are notified in advance of any such transfer.

(2) In addition, the Secretary may propose transfers to or from any line item exceeding 10 percent of the amount authorized for the line item in subsection (a); but such proposed transfer may not be made—

(A) unless a full and complete explanation of any such proposed transfer and the reason therefore are transmitted in writing to the Speaker of the House of Representatives, the President of the Senate, and the appropriate authorizing committees of the House of Representatives and the Senate, and

(B) 30 calendar days have passed following the transmission of such written explanation.

15 USC 278k note.

(d) PUBLICATION IN FEDERAL REGISTER.—The requirement of section 25(c)(2) of the Act of March 3, 1901, shall be considered to have been met by the publication made by the National Bureau of Standards on July 18, 1988 (53 Fed. Reg. 27060).

SEC. 103. UNDER SECRETARY FOR TECHNOLOGY.

In addition to any sums otherwise authorized by this title, there are authorized to be appropriated to the Secretary for fiscal year 1989—

(1) $1,000,000 for the activities of the Office of the Under Secretary of Commerce for Technology, as established in section 201(a); and

(2) $2,000,000 for the activities of the Office of Technology Policy, as established in such section.

SEC. 104. JAPANESE TECHNICAL LITERATURE.

In addition to any sums otherwise authorized by this title, there is authorized to be appropriated to the Secretary for fiscal year 1989 the sum of $1,000,000 to carry out the purposes of the Japanese Technical Literature Act of 1986 (Public Law 99-382; 100 Stat. 811).

SEC. 105. SALARY ADJUSTMENTS.

In addition to any sums otherwise authorized by this title, there are authorized to be appropriated to the Secretary for fiscal year 1989 such additional sums as may be necessary to make any adjustments in salary, pay, retirement, and other employee benefits which may be provided for by law.

SEC. 106. AVAILABILITY OF APPROPRIATIONS.

Appropriations made under the authority provided in this title shall remain available for obligation, for expenditure, or for obligation and expenditure for periods specified in the Acts making such appropriations.

SEC. 107. RESEARCH INFORMATION CENTER.

The Research Information Center of the National Bureau of Standards shall be maintained as a governmental activity under the National Institute of Standards and Technology.

SEC. 108. EVALUATED ENGINEERING DATA STUDY.

Reports.

Within 6 months after the date of the enactment of this Act, the Director of the National Institute of Standards and Technology shall conduct a study of needs within the private and public sectors for evaluated engineering data, and shall submit a report to the Congress making recommendations concerning the appropriate roles of the National Institute of Standards and Technology, other government agencies, professional societies, and trade associations in the collection, evaluation, and dissemination of such data. Such recommendations shall, among other things, address plans for the dissemination of the results of the study through data bases, and plans for incorporating high quality results from other countries.

SEC. 109. TECHNOLOGY SERVICES.

Small business. State and local governments. 15 USC 272a.

In addition to such other technology services and technology extension activities which may be mandated or authorized by law, and in order to help improve the use of technology by small and medium-sized industrial firms within the United States, the Director of the National Institute of Standards and Technology, as appropriate, shall—

(1) work directly with States, local governments, and other appropriate organizations to provide for extended distribution of Standard Reference Materials, Standard Reference Data, calibrations, and related technical services and to help transfer other expertise and technology to the States and to small businesses and other businesses within the States;

(2) evaluate those inventions from small businesses or individuals which have a significant potential for improving competitiveness;

(3) provide support for workshops on technical and entrepreneurial topics and share information developed through the Malcolm Baldrige Quality Award Program; and

(4) work with other Federal agencies to provide technical and related assistance to the States and businesses within the States.

SEC. 110. TECHNOLOGY TRANSFER.

Reports.

Within 6 months after the date of the enactment of this Act, the Director of the National Institute of Standards and Technology shall report to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Science, Space, and Technology of the House of Representatives on domestic technology transfer accomplishments, trends, and plans since 1986 at the National Bureau of Standards and the National Institute of Standards and Technology. Such report shall describe with examples the types of technology transfer undertaken by the National Bureau of Stand-

ards or the National Institute of Standards and Technology, the amount of funds devoted to these efforts, and patent and licensing activities related to the National Bureau of Standards and the National Institute of Standards and Technology research results. The report shall describe the division of technology transfer activities between the Gaithersburg, Maryland, and Boulder, Colorado, sites of the National Institute of Standards and Technology. The merits of establishing a technology transfer office in Boulder or of giving the Boulder laboratories increased technology transfer responsibilities shall also be considered.

15 USC 272b.

SEC. 111. ANNUAL BUDGET SUBMISSION.

The National Institute of Standards and Technology shall annually submit to the Congress, at the time of the release of the President's budget, a three year budget estimate for the Institute, including funding estimates for each major account and new initiative.

15 USC 272 note.

SEC. 112. INTERNATIONAL STANDARDS.

(a) PROGRAM.—The Secretary, acting through the Director of the National Institute of Standards and Technology and other appropriate officials, shall seek funding for and establish, within 6 months after the date of the enactment of this Act, a program to assist other countries in the development of their domestic standards which are compatible with standards in general use in the United States. After the program is established, it shall be funded through voluntary contributions from the private sector to fully reimburse the United States for expenses incurred during fiscal years 1989 and 1990. The program shall begin on a pilot basis focusing on one or two countries or groups of countries which are major United States trading partners and have expressed interest in such program. The Secretary shall ensure that contributions which are earmarked by country are spent to assist the development of standards by that country or group of countries.

Gifts and property.

(b) LONG-TERM PLAN.—No later than June 30, 1989, the Secretary shall submit to the Committee on Science, Space, and Technology of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a long-term plan for assistance under this section for each nation or group of nations which annually has imports of at least $1,000,000,000 from the United States (or has the potential for being a major importer from the United States) and which desires such assistance. The plan shall include a description of the resources needed to provide such assistance, the appropriate and likely sources of such funds, and the appropriate relationship between the program established under this section and private sector standards organizations. Special consideration is to be given to the feasibility of establishing a data base and other methods for making standards information developed in cooperation with one country available to other countries.

TITLE II—TECHNOLOGY ADMINISTRATION IN THE DEPARTMENT OF COMMERCE

Subtitle A—Technology Administration

SEC. 201. TECHNOLOGY ADMINISTRATION.

(a) ESTABLISHMENT.—Section 5(a) of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3704(a)) is amended to read as follows:

"(a) ESTABLISHMENT.—There is established in the Department of Commerce a Technology Administration, which shall operate in accordance with the provisions, findings, and purposes of this Act. The Technology Administration shall include—

"(1) the National Institute of Standards and Technology;

"(2) the National Technical Information Service; and

"(3) a policy analysis office, which shall be known as the Office of Technology Policy.".

(b) UNDER SECRETARY AND ASSISTANT SECRETARY.—Section 5(b) of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3704(b)) is amended to read as follows:

"(b) UNDER SECRETARY AND ASSISTANT SECRETARY.—The President shall appoint, by and with the advice and consent of the Senate, to the extent provided for in appropriations Acts— President of U.S.

"(1) an Under Secretary of Commerce for Technology, who shall be compensated at the rate provided for level III of the Executive Schedule in section 5314 of title 5, United States Code; and

"(2) an Assistant Secretary of Commerce for Technology Policy, who shall serve as policy analyst for the Under Secretary.".

(c) DUTIES.—Section 5(c) of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3704(c)) is amended—

(1) by redesignating paragraphs (1) through (10) as paragraphs (5) through (14), respectively;

(2) by striking "Assistant Secretary, on a continuing basis, shall—" and inserting in lieu thereof "Under Secretary, as appropriate, shall—

"(1) manage the Technology Administration and supervise its agencies, programs, and activities;

"(2) conduct technology policy analyses to improve United States industrial productivity, technology, and innovation, and cooperate with United States industry in the improvement of its productivity, technology, and ability to compete successfully in world markets;

"(3) carry out any functions formerly assigned to the Office of Productivity, Technology, and Innovation;

"(4) assist in the implementation of the Metric Conversion Act of 1975;"; and

(3) in paragraph (10), as redesignated by paragraph (1) of this subsection, by striking "Assistant Secretary" and inserting in lieu thereof "Under Secretary".

(d) CONFORMING AMENDMENTS.—(1) Section 4 of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3703) is amended—

(A) in paragraph (1), by striking "Productivity, Technology, and Innovation" and inserting in lieu thereof "Technology Policy"; and

(B) by amending paragraph (3) to read as follows:

"(3) 'Under Secretary' means the Under Secretary of Commerce for Technology appointed under section 5(b)(1).".

(2) Section 5(d)(1) of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3704(d)(1)) is amended by striking "shall establish and, through the National Technical Information Service and" and inserting in lieu thereof "and the Under Secretary shall establish, and through the National Technical Information Service and with the cooperation of".

(3) Section 11(g)(1) of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3710(g)(1)) is amended by inserting "through the Under Secretary, and" after "Secretary,".

(4) Section 5314 of title 5, United States Code, is amended by adding at the end the following item:

"Under Secretary of Commerce for Technology.".

15 USC 3704 note.

(e) TRANSITION.—The individual serving as the Assistant Secretary of Commerce for Productivity, Technology, and Innovation immediately before the date of enactment of this Act shall serve as Acting Assistant Secretary of Commerce for Technology Policy until the Assistant Secretary takes office.

National Technical Information Act of 1988.

Subtitle B—National Technical Information Service

15 USC 3701 note.

SEC. 211. SHORT TITLE.

This subtitle may be cited as the "National Technical Information Act of 1988".

15 USC 3704b.

SEC. 212. NATIONAL TECHNICAL INFORMATION SERVICE.

(a) POWERS.—(1) The Secretary of Commerce, acting through the Director of the National Technical Information Service (hereafter in this subtitle referred to as the "Director") is authorized to do the following:

Contracts.

(A) Enter into such contracts, cooperative agreements, joint ventures, and other transactions, in accordance with all relevant provisions of Federal law applicable to such contracts and agreements, and under reasonable terms and conditions, as may be necessary in the conduct of the business of the National Technical Information Service (hereafter in this subtitle referred to as the "Service").

(B) In addition to the authority regarding fees contained in section 2 of the Act entitled "An Act to provide for the dissemination of technological, scientific, and engineering information to American business and industry, and for other purposes" enacted September 9, 1950 (15 U.S.C. 1152), retain and, subject to appropriations Acts, utilize its net revenues to the extent necessary to implement the plan submitted under subsection (f)(3)(D).

(C) Enter into contracts for the performance of part or all of the functions performed by the Promotion Division of the Service prior to the date of the enactment of this Act. The details of any such contract, and a statement of its effect on the operations and personnel of the Service, shall be provided to the appropriate committees of the Congress 30 days in advance of the execution of such contract. Contracts.

(D) Employ such personnel as may be necessary to conduct the business of the Service.

An increase or decrease in the personnel of the Service shall not affect or be affected by any ceilings on the number or grade of personnel.

(2) The functions and activities of the Service specified in subsection (e) (1) through (6) are permanent Federal functions to be carried out by the Secretary through the Service and its employees, and shall not be transferred from the Service, by contract or otherwise, to the private sector on a permanent or temporary basis without express approval of the Congress. Functions or activities—

(A) for the procurement of supplies, materials, and equipment by the Service;

(B) referred to in paragraph (1)(C); or

(C) to be performed through joint ventures or cooperative agreements which do not result in a reduction in the Federal workforce of the affected programs of the service,

shall not be considered functions or activities for purposes of this paragraph.

(3) For the purposes of this subsection, the term "net revenues" means the excess of revenues and receipts from any source, other than royalties and other income described in section 13(a)(4) of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3710c(a)(4)), over operating expenses.

(4) Section 11(h) of the Stevenson-Wydler Technology Innovation Act of 1980 is repealed. 15 USC 3710.

(b) DIRECTOR OF THE SERVICE.—The management of the Service shall be vested in a Director who shall report to the Under Secretary of Commerce for Technology and the Secretary of Commerce.

(c) ADVISORY BOARD.—(1) There is established the Advisory Board of the National Technical Information Service, which shall be composed of a chairman and four other members appointed by the Secretary. Establishment.

(2) In appointing members of the Advisory Board the Secretary shall solicit recommendations from the major users and beneficiaries of the Service's activities and shall select individuals experienced in providing or utilizing technical information.

(3) The Advisory Board shall review the general policies and operations of the Service, including policies in connection with fees and charges for its services, and shall advise the Secretary and the Director with respect thereto.

(4) The Advisory Board shall meet at the call of the Secretary, but not less often than once each six months.

(d) AUDITS.—The Secretary of Commerce shall provide for annual independent audits of the Service's financial statements beginning with fiscal year 1988, to be conducted in accordance with generally accepted accounting principles.

(e) FUNCTIONS.—The Secretary of Commerce, acting through the Service, shall—

Records.
Public information.

(1) establish and maintain a permanent repository of nonclassified scientific, technical, and engineering information;

(2) cooperate and coordinate its operations with other Government scientific, technical, and engineering information programs;

Libraries.

(3) make selected bibliographic information products available in a timely manner to depository libraries as part of the Depository Library Program of the Government Printing Office;

(4) in conjunction with the private sector as appropriate, collect, translate into English, and disseminate unclassified foreign scientific, technical, and engineering information;

(5) implement new methods or media for the dissemination of scientific, technical, and engineering information; and

(6) carry out the functions and activities of the Secretary under the Act entitled "An Act to provide for the dissemination of technological, scientific, and engineering information to American business and industry, and for other purposes" enacted September 9, 1950, and the functions and activities of the Secretary performed through the National Technical Information Service as of the date of enactment of this Act under the Stevenson-Wydler Technology Innovation Act of 1980.

(f) NOTIFICATION OF CONGRESS.—(1) The Secretary of Commerce and the Director shall keep the appropriate committees of Congress fully and currently informed about all activities related to the carrying out of the functions of the Service, including changes in fee policies.

Reports.

(2) Within 90 days after the date of the enactment of this Act, the Secretary of Commerce shall submit to the Congress a report on the current fee structure of the Service, including an explanation of the basis for the fees, taking into consideration all applicable costs, and the adequacy of the fees, along with reasons for the declining sales at the Service of scientific, technical, and engineering publications. Such report shall explain any actions planned or taken to increase such sales at reasonable fees.

Reports.

(3) The Secretary shall submit an annual report to the Congress which shall—

(A) summarize the operations of the Service during the preceding year, including financial details and staff levels broken down by major activities;

(B) detail the operating plan of the Service, including specific expense and staff needs, for the upcoming year;

(C) set forth details of modernization progress made in the preceding year;

(D) describe the long-term modernization plans of the Service; and

(E) include the results of the most recent annual audit carried out under subsection (d).

(4) The Secretary shall also give the Congress detailed advance notice of not less than 30 calendar days of—

(A) any proposed reduction-in-force;

(B) any joint venture or cooperative agreement which involves a financial incentive to the joint venturer or contractor; and

(C) any change in the operating plan submitted under paragraph (3)(B) which would result in a variation from such plan with respect to expense levels of more than 10 percent.

TITLE III—MISCELLANEOUS AMENDMENTS TO STEVENSON-WYDLER TECHNOLOGY INNOVATION ACT OF 1980

SEC. 301. COOPERATIVE RESEARCH AND DEVELOPMENT AGREEMENTS.

Patents and trademarks.

Section 12 of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3710a) is amended—

(1) in subsection (a)(2), by striking "at the laboratory and other inventions" and inserting in lieu thereof "or other intellectual property developed at the laboratory and other inventions or other intellectual property"; and

(2) in subsection (b)—

(A) by striking "and" at the end of paragraphs (2) and (3);

(B) by redesignating paragraph (4) as paragraph (5); and

(C) by inserting after paragraph (3) the following new paragraph:

"(4) determine rights in other intellectual property developed under an agreement entered into under subsection (a)(1); and".

SEC. 302. REWARDS.

Section 13(1) of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3710b(1)) is amended by inserting "computer software," after "inventions, innovations,".

SEC. 303. DISTRIBUTION OF ROYALTIES.

(a) Section 14(a)(1)(A) of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3710c(a)(1)(A)) is amended—

(1) in clause (i), by striking "was an employee of the agency at the time the invention was made" and inserting in lieu thereof "has assigned his or her rights in the invention to the United States"; and

(2) in clause (ii), by striking "who were employed by the agency at the time the invention was made and whose names appear on licensed inventions" and inserting in lieu thereof "under clause (i)".

(b) This section shall be effective as of October 20, 1986.

Effective date. 15 USC 3710c note.

TITLE IV—DRUG-FREE WORKPLACE

SEC. 401. DRUG-FREE WORKPLACE.

(a) No department, agency, or instrumentality of the United States receiving funds authorized to be appropriated under this Act for fiscal year 1989 or under any other Act authorizing appropriations for fiscal year 1989 for the National Institute of Standards and Technology (hereafter in this section referred to as the "Institute"), shall obligate or expend any such funds, unless the Institute has in place, and will continue to administer in good faith, a written policy designed to ensure that all of its workplaces are free from the illegal use, possession, or distribution of controlled substances (as defined in the Controlled Substances Act) by the officers and employees of the Institute.

(b) No funds so authorized to be appropriated to the Institute for fiscal year 1989 shall be available for payment in connection with any grant, contract, or other agreement, unless the recipient of such

grant, contractor, or party to such agreement, as the case may be, has in place and will continue to administer in good faith a written policy, adopted by such recipient, contractor, or party's board of directors or other governing authority, satisfactory to the Director of the Institute, designed to ensure that all of the workplaces of such recipient, contractor, or party are free from the illegal use, possession, or distribution of controlled substances (as defined in the Controlled Substances Act) by the officers and employees of such recipient, contractor, or party.

Approved October 24, 1988.

LEGISLATIVE HISTORY—H.R. 4417 (S. 2701):

HOUSE REPORTS: No. 100-673, Pt. 1 (Comm. on Science, Space, and Technology) and Pt. 2 (Comm. on Energy and Commerce).
SENATE REPORTS: No. 100-466 accompanying S. 2701 (Comm. on Commerce, Science, and Transportation).
CONGRESSIONAL RECORD, Vol. 134 (1988):
Sept. 26, considered and passed House.
Oct. 5, considered and passed Senate.

O