

107TH CONGRESS
2D SESSION

S. 3177

To authorize appropriations for the programs of the Department of Commerce’s National Institute of Standards and Technology, to amend the National Institute of Standards and Technology Act, and for other purposes.

IN THE SENATE OF THE UNITED STATES

NOVEMBER 19, 2002

Mr. HOLLINGS introduced the following bill; which was read twice and referred to the Committee on Commerce, Science, and Transportation

A BILL

To authorize appropriations for the programs of the Department of Commerce’s National Institute of Standards and Technology, to amend the National Institute of Standards and Technology Act, 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 “National Institute of
5 Standards and Technology Authorization Act of 2002”.

1 **TITLE I—FISCAL YEARS 2003–**
2 **2005 AUTHORIZATION OF AP-**
3 **PROPRIATIONS**

4 **SEC. 101. AUTHORIZATION OF APPROPRIATIONS FOR THE**
5 **NATIONAL INSTITUTE OF STANDARDS AND**
6 **TECHNOLOGY.**

7 (a) SCIENTIFIC AND TECHNICAL RESEARCH SERV-
8 ICES.—There are authorized to be appropriated to the
9 Secretary of Commerce for the Scientific and Technical
10 Research Services activities of National Institute of Stand-
11 ards and Technology:

12 (1) for the Measurement Standards Labora-
13 tories \$336,443,000 for fiscal year 2003 and such
14 sums as may be necessary for fiscal years 2004 and
15 2005.

16 (2) for the Malcolm Baldrige National Quality
17 Program \$5,282,000 for fiscal year 2003 and such
18 sums as may be necessary for fiscal years 2004 and
19 2005.

20 (b) INDUSTRIAL TECHNOLOGY SERVICES.—There
21 are authorized to be appropriated to the Secretary of Com-
22 merce for the Industrial Technology Services activities of
23 National Institute of Standards and Technology:

24 (1) for the Advanced Technology Program
25 \$185,353,000 for fiscal year 2003 and such sums as

1 may be necessary for fiscal years 2004 and 2005, of
2 which, for each fiscal year, no less than \$60,700,000
3 shall be obligated for new awards.

4 (2) for the Manufacturing Extension Partner-
5 ship Program \$106,623,000 for fiscal year 2003 and
6 such sums as may be necessary for fiscal years 2004
7 and 2005.

8 (c) CONSTRUCTION OF RESEARCH FACILITIES.—

9 There are authorized to be appropriated to the Secretary
10 of Commerce for the Construction of Research Facilities
11 activities of \$63,750,000 for fiscal year 2003 and such
12 sums as may be necessary for fiscal years 2004 and 2005.

13 **TITLE II—TECHNICAL AMEND-**
14 **MENTS TO THE NATIONAL IN-**
15 **STITUTE OF STANDARDS AND**
16 **TECHNOLOGY ACT AND**
17 **OTHER TECHNICAL AMEND-**
18 **MENTS**

19 **SEC. 201. RESEARCH FELLOWSHIPS.**

20 Section 18 of the National Institute of Standards and
21 Technology Act (15 U.S.C. 278g–1) is amended by strik-
22 ing “up to 1 per centum of the” in the first sentence.

1 **SEC. 202. BALDRIGE NATIONAL QUALITY PROGRAM.**

2 (a) ESTABLISHMENT OF PROGRAM.—The National
3 Institute of Standards and Technology Act (15 U.S.C. 271
4 et seq.) is amended by—

5 (1) redesignating sections 23 through 32 as sec-
6 tions 24 through 33, respectively; and

7 (2) inserting after section 22 the following:

8 **“SEC. 23. ESTABLISHMENT OF THE BALDRIGE NATIONAL**
9 **QUALITY PROGRAM.**

10 “The Baldrige National Quality Program is es-
11 tablished within the Institute. The purpose is to ad-
12 minister the Malcolm Baldrige National Quality
13 Award and to perform research and outreach activi-
14 ties to assist other quality and performance improve-
15 ment efforts. The Baldrige National Quality Pro-
16 gram shall serve as a mechanism by which compa-
17 nies in the United States, universities, other inter-
18 ested parties, and the Institute can work together to
19 advance quality and performance management pro-
20 grams and to share and develop, as appropriate, best
21 practices and strategies for enhancing organizational
22 performance.”.

23 (b) AWARD LIMIT.—Section 17(c)(3) of the Steven-
24 son-Wynder Technology Innovation Act of 1980, (15
25 U.S.C. 3711a(c)(3)) is amended to read as follows:

1 “(3) Not more than five awards may be made
 2 within any subcategory in any year. No award shall
 3 be made within any category or subcategory if there
 4 are no qualifying enterprises in that category or sub-
 5 category.”.

6 (c) CATEGORY.—Section 17(c)(1)(C) of the Steven-
 7 son-Wydler Technology Innovation Act of 1980, (15
 8 U.S.C. 3711a(c)(1)) is amended to read as follows:

9 “(C) Companies and not-for-profit organi-
 10 zations that primarily provide service.”.

11 **SEC. 203. ADVANCED TECHNOLOGY PROGRAM.**

12 (a) UNIVERSITY LEADERSHIP OF JOINT VEN-
 13 TURES.—So much of paragraph (1) of subsection (b) of
 14 section 29 of the National Institute of Standards and
 15 Technology Act, as redesignated by section 202 of this Act
 16 (formerly 15 U.S.C. 278n(b)(1)) as precedes subpara-
 17 graph (A) is amended to read as follows:

18 “(1) aid United States joint research and devel-
 19 opment ventures led by industry, or by institutions
 20 of higher education or other non-profit independent
 21 research organizations, but which shall, in any event,
 22 include at least two separately-owned, for-profit
 23 companies each of which participates substantially in
 24 the joint ventures (hereafter in this section referred
 25 to as ‘joint ventures’), including those involving col-

laborative technology demonstration projects which develop and test prototype equipment and processes, through—”.

(b) INTELLECTUAL PROPERTY.—

(1) IN GENERAL.—So much of paragraph (11) of subsection (d) of section 29 of such Act, as so redesignated, as precedes subparagraph (B) is amended to read as follows:

“(11)(A) Title to any intellectual property arising from assistance provided under this section may vest in any company, non-profit independent research organization or institution of higher education, incorporated or organized in the United States, as agreed by the members of a joint venture, or for awards made to a single company, by the individual awardee, receiving funding under any particular award made under this section, notwithstanding sections 202(a) and (b) of title 35, United States Code. The United States may reserve a non-exclusive, nontransferable, irrevocable paid-up license, to have practiced for or on behalf of the United States, any such intellectual property, but shall not, in the exercise of such license, publicly disclose proprietary information related to the license. Title to any such intellectual property shall not be

1 transferred or passed, except to a company, non-
 2 profit independent research organization, or institu-
 3 tion of higher education, incorporated or organized
 4 in the United States, until the expiration of the first
 5 patent obtained in connection with such intellectual
 6 property.”.

7 (2) EFFECTIVE DATE.—The amendments made
 8 by paragraph (1) shall take effect on the date of en-
 9 actment of this Act and shall apply to any Advanced
 10 Technology Program award made on or after that
 11 date.

12 (c) ENSURING SCIENTIFIC BASIS OF PROJECTS.—
 13 Subsection (d) of section 29 of such Act, as so redesign-
 14 nated, is amended—

15 (1) by redesignating paragraphs (1) through
 16 (11) as paragraphs (2) through (12); and

17 (2) by inserting before paragraph (2), as so re-
 18 designated, the following:

19 “(1) No contract or award may be made for
 20 any project unless such project may remove a sci-
 21 entific or technological barrier to product develop-
 22 ment.”.

23 (d) INDUSTRY AND PEER REVIEW.—Subsection (g)
 24 of section 29 of such Act, as so redesignated, is amended
 25 to read as follows:

1 “(g) INDUSTRY AND PEER REVIEW OF PROPOSALS;
2 STANDARD OF REVIEW.—

3 “(1) In order to analyze the need for or the
4 value of joint ventures and other research projects in
5 specific technical fields, to evaluate any proposal
6 made by a joint venture or company requesting the
7 Secretary’s assistance, or to monitor the progress of
8 any joint venture or any company research project
9 which receives Federal funds under the Program,
10 the Secretary, the Under Secretary of Commerce for
11 Technology, and the Director may, notwithstanding
12 any other provision of law, meet with, or enter into
13 contracts with, such industry or other expert sources
14 as they consider useful and appropriate.

15 “(2) The Director shall conduct a study of, and
16 thereafter monitor, whether the industry and other
17 expert sources being utilized under paragraph (1)
18 could benefit from advice and information from ad-
19 ditional non-governmental sources without a propri-
20 etary or financial interest in proposals being evalu-
21 ated in order to better assess whether specific inno-
22 vations to be pursued are being adequately sup-
23 ported by the private sector.”.

1 (e) INSTITUTION OF HIGHER EDUCATION DE-
2 FINED.—Subsection (j) of section 29 of such Act, as so
3 redesignated, is amended—

4 (1) by redesignating paragraphs (1) and (2) as
5 paragraphs (2) and (3), respectively; and

6 (2) by inserting before paragraph (2), as so re-
7 designated, the following:

8 “(1) the term ‘institution of higher education’
9 has the meaning given that term in section 101 of
10 the Higher Education Act of 1965 (20 U.S.C.
11 1001(a));”.

12 (f) MISCELLANEOUS.—Section 29 of such Act, as so
13 redesignated, is amended by adding at the end the fol-
14 lowing:

15 “(l) VESTING TITLE TO EQUIPMENT.—The Sec-
16 retary, acting through the Director, may vest title to tan-
17 gible personal property in any eligible recipient under this
18 section if—

19 “(1) the property is purchased with funds pro-
20 vided under this section; and

21 “(2) the Secretary, acting through the Director,
22 determines that the vesting of such property fur-
23 thers the objectives of the Institute; and then the re-
24 cipient shall have no further obligation to the United

1 States Government with regard to equipment dis-
2 position.

3 “(m) NO COST TIME EXTENSION.—Notwithstanding
4 subsections (b)(1)(B)(ii) and (d)(4), the Director may
5 grant extensions beyond the deadlines established under
6 those subsections for joint venture and single company
7 awardees to expend Federal funds to complete their
8 projects, if such extension may be granted with no addi-
9 tional cost to the Federal Government and it is in the in-
10 terest of the Federal Government to do so.

11 “(n) SELECTING OFFICIAL.—

12 “(1) IN GENERAL.—The Selecting Official des-
13 ignated under part 295 of title 15, Code of Federal
14 Regulations, shall be an employee of the Institute
15 who is not a political appointee. The decision of the
16 Selecting Official shall be final and shall not be in-
17 fluenced by any political appointee of the Institute
18 or of the Department of Commerce.

19 “(2) DEFINITION OF POLITICAL APPOINTEE.—
20 For purposes of this subsection, the term ‘political
21 appointee’ means any individual who—

22 “(A) is employed in a position listed in sec-
23 tions 5312 through 5316 of title 5 (relating to
24 the Executive Schedule);

1 “(B) is a limited term appointee, limited
2 emergency appointee, or noncareer appointee in
3 the Senior Executive Service, as defined under
4 paragraphs (5), (6), and (7), respectively, of
5 section 3132(a) of title 5; or

6 “(C) is employed in a position in the exec-
7 utive branch of the Government of a confiden-
8 tial or policy-determining character under
9 schedule C of subpart C of part 213 of title 5
10 of the Code of Federal Regulations.”.

11 **SEC. 204. MANUFACTURING EXTENSION PARTNERSHIP.**

12 Section 26 of the National Institute of Standards and
13 Technology Act, as redesignated by section 202 of this Act
14 (formerly 15 U.S.C. 278k), is amended by adding at the
15 end the following:

16 “(e) NONGOVERNMENTAL ORGANIZATIONS.—
17 Notwithstanding any other provision of law, when entering
18 into procurement contracts or financial assistance agree-
19 ments for the purpose of carrying out collective research
20 and development initiatives pertaining to paragraph (a) of
21 this section, the Secretary may limit eligibility to non-prof-
22 it organizations. The Secretary may seek and accept con-
23 tributions from public and private sources to support these
24 efforts as necessary.”.

1 **SEC. 205. FINANCIAL AGREEMENTS.**

2 (a) CLARIFICATION.—Section 2(b)(4) of the National
3 Institute of Standards and Technology Act (15 U.S.C.
4 272(b)(4)) is amended by inserting “and grants and coop-
5 erative agreements,” after “arrangements,”.

6 (b) MEMBERSHIPS.—Section 2(c) of the National In-
7 stitute of Standards and Technology Act (15 U.S.C.
8 272(c)) is amended—

9 (1) by striking “and” after the semicolon in
10 paragraph (21);

11 (2) by redesignating paragraph (22) as para-
12 graph (23); and

13 (3) by inserting after paragraph (21) the fol-
14 lowing:

15 “(22) notwithstanding subsection (b)(4) of this
16 section, the Grants and Cooperative Agreements Act
17 (31 U.S.C. 6301–6308), the Competition in Con-
18 tracting Act (31 U.S.C. 3551–3556), and the Fed-
19 eral Acquisition Regulations set forth in title 48,
20 Code of Federal Regulations, to expend appropriated
21 funds for National Institute of Standards and Tech-
22 nology memberships in scientific organizations, reg-
23 istration fees for attendance at conferences, and
24 sponsorship of conferences in furtherance of tech-
25 nology transfer; and”.

1 **SEC. 206. WORKING CAPITAL FUND.**

2 Section 12 of the National Institute of Standards and
3 Development Act (15 U.S.C. 278b) is amended by adding
4 at the end the following:

5 “(g) AMOUNT AND SOURCE OF TRANSFERS.—Not to
6 exceed one-quarter per centum of the amounts appro-
7 priated to the Institute for any fiscal year may be trans-
8 ferred to the fund, in addition to any other transfer au-
9 thority. In addition, funds provided to the Institute from
10 other Federal agencies for the purpose of production of
11 Standard Reference Materials may be transferred to the
12 fund.”.

13 **SEC. 207. OUTDATED SPECIFICATIONS.**

14 (a) REDEFINITION OF METRIC SYSTEM.—The Metric
15 System Act of 1866 (15 U.S.C. 205; 14 Stat. 339, 340)
16 is amended by striking the text of section 2 and inserting
17 the following:

18 “The metric system of measurement shall be defined
19 as the International System of Units as established in
20 1960, and subsequently maintained, by the General Con-
21 ference of Weights and Measures, and as interpreted or
22 modified for the United States by the Secretary of Com-
23 merce.”.

24 (b) REPEAL OF REDUNDANT AND OBSOLETE AU-
25 THORITY.—The Act of July 21, 1950, entitled, “An Act
26 To redefine the units and establish the standards of elec-

1 trical and photometric measurements of 1950” (15 U.S.C.
2 223, 224) is hereby repealed.

3 (c) STANDARD TIME.—The first section of the Act
4 of March 19, 1918, (15 U.S.C 261; commonly known as
5 the Calder Act) is amended—

6 (1) by inserting “(a) IN GENERAL.—” before
7 “For the purpose”;

8 (2) by striking the second sentence and the
9 extra period after it and inserting “Except as pro-
10 vided in section 3(a) of the Uniform Time Act of
11 1966, the standard time of the first zone shall be
12 Coordinated Universal Time retarded by 4 hours;
13 that of the second zone retarded by 5 hours; that of
14 the third zone retarded by 6 hours; that of the
15 fourth zone retarded by 7 hours; that of the fifth
16 zone retarded 8 hours; that of the sixth zone re-
17 tarder by 9 hours; that of the seventh zone retarded
18 by 10 hours; that of the eighth zone retarded by 11
19 hours; and that of the ninth zone shall be Coordi-
20 nated Universal Time advanced by 10 hours.”; and

21 (3) adding at the end the following:

22 “(b) COORDINATED UNIVERSAL TIME DEFINED.—In
23 this section, the term ‘Coordinated Universal Time’ means
24 the time scale maintained through the General Conference

1 of Weights and Measures and interpreted or modified for
2 the United States by the Secretary of Commerce.”.

3 **SEC. 208. RETENTION OF DEPRECIATION SURCHARGE.**

4 Section 14 of the National Institute of Standards and
5 Technology Act (15 U.S.C. 278d) is amended—

6 (1) by inserting “(a) IN GENERAL.—” before
7 “Within”; and

8 (2) adding at the end the following:

9 “(b) RETENTION OF FEES.—The Director is author-
10 ized to retain all building use and depreciation surcharge
11 fees collected pursuant to OMB Circular A–25. Such fees
12 shall be collected and credited to the Construction of Re-
13 search Facilities Appropriation Account for use in mainte-
14 nance and repair of National Institute of Standards and
15 Technology’s existing facilities.”.

16 **SEC. 209. NON-ENERGY INVENTIONS PROGRAM.**

17 Section 28 of the National Institute of Standards and
18 Technology Act, as redesignated by section 202 of this Act
19 (formerly 15 U.S.C. 278m), is repealed.

○