IIB

114TH CONGRESS
2D SESSION

H. R. 5639

IN THE SENATE OF THE UNITED STATES

JULY 12, 2016

Received; read twice and referred to the Committee on Commerce, Science, and Transportation

AN ACT

To update the National Institute of Standards and Technology Act, and for other purposes.

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

SECTION 1. SHORT TITLE.

This Act may be cited as the ''National Institute of Standards and Technology Improvement Act of 2016''.

SEC. 2. STANDARDS AND CONFORMITY ASSESSMENT.

Section 2 of the National Institute of Standards and Technology Act (15 U.S.C. 272) is amended—

(1) in subsection (b)—

(A) in the matter preceding paragraph (1), by striking ''authorized to take'' and inserting ''authorized to serve as the President's principal adviser on standards policy pertaining to the Nation's technological competitiveness and innovation ability and to take'';

(B) in paragraph (3), by striking ''compare standards'' and all that follows through ''Federal Government'' and inserting ''facilitate standards-related information sharing and cooperation between Federal agencies''; and

(C) in paragraph (13), by striking ''Federal, State, and local'' and all that follows through ''private sector'' and inserting ''technical standards activities and conformity assessment activities of Federal, State, and local governments with private sector''; and

(2) in subsection (c)—

(A) in paragraph (22), by striking ''and'' after the semicolon;

(B) by redesignating paragraph (23) as paragraph (25); and

(C) by inserting after paragraph (22) the following:

''(23) participate in and support scientific and technical conferences;

''(24) perform pre-competitive measurement science and technology research in partnership with institutions of higher education and industry to promote United States industrial competitiveness; and''.

SEC. 3. VISITING COMMITTEE ON ADVANCED TECHNOLOGY.

Section 10 of the National Institute of Standards and Technology Act (15 U.S.C. 278) is amended—

(1) in subsection (a)—

(A) by striking ''15 members'' and inserting ''not fewer than 11 members'';

(B) by striking ''at least 10'' and inserting ''at least two-thirds''; and

(C) by adding at the end the following: ''The Committee may consult with the National Research Council in making recommendations regarding general policy for the Institute.''; and

(2) in subsection (h)(1), by striking ", including the Program established under section 28,".

SEC. 4. POLICE AND SECURITY AUTHORITY.

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

(1) by striking "of the Government; and" and inserting "of the Government;"; and

(2) by striking "United States Code." and inserting "United States Code; and (i) the protection of Institute buildings and other plant facilities, equipment, and property, and of employees, associates, visitors, or other persons located therein or associated therewith, notwithstanding any other provision of law.".

SEC. 5. EDUCATION AND OUTREACH.

The National Institute of Standards and Technology Act (15 U.S.C. 271 et seq.) is amended by striking sections 18, 19, and 19A and inserting the following:

"SEC. 18. EDUCATION AND OUTREACH.

"(a) IN GENERAL.—The Director may support, promote, and coordinate activities and efforts to enhance public awareness and understanding of measurement sciences, standards, and technology by the general public, industry, government, and academia in support of the Institute's mission.

"(b) RESEARCH FELLOWSHIPS.—

"(1) IN GENERAL.—The Director may award research fellowships and other forms of financial and logistical assistance, including direct stipend awards, to—

"(A) students at institutions of higher education within the United States who show promise as present or future contributors to the mission of the Institute; and

"(B) United States citizens for research and technical activities of the Institute.

"(2) SELECTION.—The Director shall select persons to receive such fellowships and assistance on the basis of ability and of the relevance of the proposed work to the mission and programs of the Institute.

"(3) DEFINITION.—For the purposes of this subsection, financial and logistical assistance includes, notwithstanding section 1345 of title 31, United States Code, or any contrary provision of law, temporary housing and local transportation to and from the Institute facilities.

"(c) POST-DOCTORAL FELLOWSHIP PROGRAM.—The Director shall establish and conduct a post-doctoral fellowship program, subject to the availability of appropriations, that shall include not fewer than 20 fellows per fiscal year. In evaluating applications for fellowships under this subsection, the Director shall give consideration to the goal of promoting the participation of underrepresented students in research areas supported by the Institute.''.

SEC. 6. PROGRAMMATIC PLANNING REPORT.

Section 23(d) of the National Institute of Standards and Technology Act (15 U.S.C. 278i(d)) is amended by adding at the end the following: ''The 3-year programmatic planning document shall also describe how the Director is addressing recommendations from the Visiting Committee on Advanced Technology established under section 10.''.

SEC. 7. ASSESSMENTS BY THE NATIONAL RESEARCH COUNCIL.

(a) NATIONAL ACADEMY OF SCIENCES REVIEW.—Not later than 6 months after the date of enactment of this Act, the Director of the National Institute of Standards and Technology shall enter into a contract with the National Academy of Sciences to conduct a single, comprehensive review of the Institute's laboratory programs. The review shall—

(1) assess the technical merits and scientific caliber of the research conducted at the laboratories;

(2) examine the strengths and weaknesses of the 2010 laboratory reorganization on the Institute's ability to fulfill its mission;

(3) evaluate how crosscutting research and development activities are planned, coordinated, and executed across the laboratories; and

(4) assess how the laboratories are engaging industry, including the incorporation of industry need, into the research goals and objectives of the Institute.

(b) ADDITIONAL ASSESSMENTS.—Section 24 of the National Institute of Standards and Technology Act (15 U.S.C. 278j) is amended to read as follows:

"SEC. 24. ASSESSMENTS BY THE NATIONAL RESEARCH COUNCIL.

''(a) IN GENERAL.—The Institute shall contract with the National Research Council to perform and report on assessments of the technical quality and impact of the work conducted at Institute laboratories.

''(b) SCHEDULE.—Two laboratories shall be assessed under subsection (a) each year, and each laboratory shall be assessed at least once every 3 years.

''(c) SUMMARY REPORT.—Beginning in the year after the first assessment is conducted under subsection (a), and once every 2 years thereafter, the Institute shall contract with the National Research Council to prepare a report that summarizes the findings common across the individual assessment reports.

"(d) ADDITIONAL ASSESSMENTS.—The Institute, at the discretion of the Director, also may contract with the National Research Council to conduct additional assessments of Institute programs and projects that involve collaboration across the Institute laboratories and centers and assessments of selected scientific and technical topics.

"(e) CONSULTATION WITH VISITING COMMITTEE ON ADVANCED TECHNOLOGY.—The National Research Council may consult with the Visiting Committee on Advanced Technology established under section 10 in performing the assessments under this section.

"(f) REPORTS.—Not later than 30 days after the completion of each assessment, the Institute shall transmit the report on such assessment to the Committee on Science, Space, and Technology of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate.".

SEC. 8. HOLLINGS MANUFACTURING EXTENSION PARTNERSHIP.

Section 25 of the National Institute of Standards and Technology Act (15 U.S.C. 278k) is amended to read as follows:

"SEC. 25. HOLLINGS MANUFACTURING EXTENSION PARTNERSHIP.

"(a) ESTABLISHMENT AND PURPOSE.—

"(1) IN GENERAL.—The Secretary, through the Director and, if appropriate, through other officials, shall provide assistance for the creation and support of manufacturing extension centers, to be known as the 'Hollings Manufacturing Extension Centers', for the transfer of manufacturing technology and best business practices (in this Act referred to as the 'Centers'). The program under this section shall be known as the 'Hollings Manufacturing Extension Partnership'.

"(2) AFFILIATIONS.—Such Centers shall be affiliated with any United States-based public or nonprofit institution or organization, or group thereof, that applies for and is awarded financial assistance under this section.

"(3) OBJECTIVE.—The objective of the Centers is to enhance competitiveness, productivity, and technological performance in United States manufacturing through—

"(A) the transfer of manufacturing technology and techniques developed at the Institute to Centers and, through them, to manufacturing companies throughout the United States;

"(B) the participation of individuals from industry, institutions of higher education, State governments, other Federal agencies, and, when appropriate, the Institute in cooperative technology transfer activities;

"(C) efforts to make new manufacturing technology and processes usable by United States-based small- and medium-sized companies;

"(D) the active dissemination of scientific, engineering, technical, and management information about manufacturing to industrial firms, including small- and medium-sized manufacturing companies;

"(E) the utilization, when appropriate, of the expertise and capability that exists in Federal laboratories other than the Institute;

"(F) the provision to community colleges and area career and technical education schools of information about the job skills needed in small- and medium-sized manufacturing businesses in the regions they serve; and

"(G) promoting and expanding certification systems offered through industry, associations, and local colleges, when appropriate.

"(b) ACTIVITIES.—The activities of the Centers shall include—

"(1) the establishment of automated manufacturing systems and other advanced production technologies, based on Institute-supported research, for the purpose of demonstrations and technology transfer;

"(2) the active transfer and dissemination of research findings and Center expertise to a wide range of companies and enterprises, particularly small- and medium-sized manufacturers; and

"(3) the facilitation of collaborations and partnerships between small- and medium-sized manufacturing companies and community colleges and area career and technical education schools to help such colleges and schools better understand the specific needs of manufacturers and to help manufacturers better understand the skill sets that students learn in the programs offered by such colleges and schools.

"(c) OPERATIONS.—

"(1) FINANCIAL SUPPORT.—The Secretary may provide financial support to any Center created under subsection (a). The Secretary may not provide to a Center more than 50 percent of the capital and annual operating and maintenance funds required to create and maintain such Center.

"(2) REGULATIONS.—The Secretary shall implement, review, and update the sections of the Code of Federal Regulations related to this section at least once every 3 years.

"(3) APPLICATION.—

"(A) IN GENERAL.—Any nonprofit institution, or consortium thereof, or State or local government, may submit to the Secretary an application for financial support under this section, in accordance with the procedures established by the Secretary.

"(B) COST SHARING.—In order to receive assistance under this section, an applicant for financial assistance under subparagraph (A) shall provide adequate assurances that non-Federal assets obtained from the applicant and the applicant's partnering organizations will be used as a funding source to meet not less than 50 percent of the costs incurred. For purposes of the preceding sentence, the costs incurred means the costs incurred in connection with the activities undertaken to improve the competitiveness, management, productivity, and technological performance of small- and medium-sized manufacturing companies.

"(C) AGREEMENTS WITH OTHER ENTITIES.—In meeting the 50 percent requirement, it is anticipated that a Center will enter into agreements with other entities such as private industry, institutions of higher education, and State governments to accomplish programmatic objectives and access new and existing resources that will further the impact of the Federal investment made on behalf of small- and medium-sized manufacturing companies.

"(D) LEGAL RIGHTS.—Each applicant under subparagraph (A) shall also submit a proposal for the allocation of the legal rights associated with any invention which may result from the proposed Center's activities.

"(4) MERIT REVIEW.—The Secretary shall subject each such application to merit review. In making a decision whether to approve such application and provide financial support under this section, the Secretary shall consider, at a minimum, the following:

"(A) The merits of the application, particularly those portions of the application regarding technology transfer, training and education, and adaptation of manufacturing technologies to the needs of particular industrial sectors.

"(B) The quality of service to be provided.

"(C) Geographical diversity and extent of service area.

"(D) The percentage of funding and amount of in-kind commitment from other sources.

"(5) EVALUATION.—

"(A) IN GENERAL.—Each Center that receives financial assistance under this section shall be evaluated during its third year of operation by an evaluation panel appointed by the Secretary.

"(B) COMPOSITION.—Each such evaluation panel shall be composed of private experts, none of whom shall be connected with the involved Center, and Federal officials.

"(C) CHAIR.—An official of the Institute shall chair the panel.

"(D) PERFORMANCE MEASUREMENT.—Each evaluation panel shall measure the involved Center's performance against the objectives specified in this section.

"(E) POSITIVE EVALUATION.—If the evaluation is positive, the Secretary may provide continued funding through the sixth year.

"(F) PROBATION.—The Secretary shall not provide funding unless the Center has received a positive evaluation. A Center that has not received a positive evaluation by the evaluation panel shall be notified by the panel of the deficiencies in its performance and shall be placed on probation for 1 year, after which time the panel shall reevaluate the Center. If the Center has not addressed the deficiencies identified by the panel, or shown a significant improvement in its performance, the Director shall conduct a new competition to select an operator for the Center or may close the Center.

"(G) ADDITIONAL FINANCIAL SUPPORT.—After the sixth year, a Center may receive additional financial support under this section if it has received a positive evaluation through an independent review, under procedures established by the Institute.

"(H) EIGHT-YEAR REVIEW.—A Center shall undergo an independent review in the eighth year of operation. Each evaluation panel shall measure the Center's performance against the objectives specified in this section. A Center that has not received a positive evaluation as a result of an independent review shall be notified by the Program of the deficiencies in its performance and shall be placed on probation for 1 year, after which time the Program shall re-evaluate the Center. If the Center has not addressed the deficiencies identified by the review, or shown a significant improvement in its performance, the Director shall conduct a new competition to select an operator for the Center or may close the Center.

"(I) RECOMPETITION.—If a recipient of a Center award has received financial assistance for 10 consecutive years, the Director shall conduct a new competition to select an operator for the Center consistent with the plan required in this Act. Incumbent Center operators in good standing shall be eligible to compete for the new award.

"(J) REPORTS.—

"(i) PLAN.—Not later than 180 days after the date of enactment of the National Institute of Standards and Technology Improvement Act of 2016, the Director shall transmit 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 plan as to how the Institute will conduct reviews, assessments, and re-application competitions under this paragraph.

"(ii) INDEPENDENT ASSESSMENT.—The Director shall contract with an independent organization to perform an assessment of the implementation of the re-application competition process under this paragraph within 3 years after the transmittal of the report under clause (i). The organization conducting the assessment under this clause may consult with the MEP Advisory Board.

"(iii) COMPARISON OF CENTERS.—Not later than 2 years after the date of enactment of the National Institute of Standards and Technology Improvement Act of 2016, the Director shall transmit 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 report providing information on the first and second years of operations for centers operating from new competitions or recompetition as compared to longstanding centers. The report shall provide detail on the engagement in services provided by Centers and the characteristics of services provided, including volume and type of services, so that the Committees can evaluate whether the cost-sharing ratio has an effect on the services provided at Centers.

"(6) PATENT RIGHTS.—The provisions of chapter 18 of title 35, United States Code, shall apply, to the extent not inconsistent with this section, to the promotion of technology from research by Centers under this section except for contracts for such specific technology extension or transfer services as may be specified by statute or by the Director.

"(7) PROTECTION OF CENTER CLIENT CONFIDENTIAL INFORMATION.—Section 552 of title 5, United States Code, shall apply to the following information obtained by the Federal Government on a confidential basis in connection with the activities of any participant involved in the Hollings Manufacturing Extension Partnership:

"(A) Information on the business operation of any participant in a Hollings Manufacturing Extension Partnership program or of a client of a Center.

"(B) Trade secrets possessed by any client of a Center.

"(8) ADVISORY BOARDS.—Each Center's advisory boards shall institute a conflict of interest policy, approved by the Director, that ensures the Board represents local small- and medium-sized manufacturers in the Center's region. Board Members may not serve as a vendor or provide services to the Center, nor may they serve on more than one Center's oversight board simultaneously.

"(d) ACCEPTANCE OF FUNDS.—

"(1) IN GENERAL.—In addition to such sums as may be appropriated to the Secretary and Director to operate the Hollings Manufacturing Extension

Partnership, the Secretary and Director also may accept funds from other Federal departments and agencies and, under section 2(c)(7), from the private sector, to be available to the extent provided by appropriations Acts, for the purpose of strengthening United States manufacturing.

"(2) ALLOCATION OF FUNDS.—

"(A) FUNDS ACCEPTED FROM OTHER FEDERAL DEPARTMENTS OR AGENCIES.—The Director shall determine whether funds accepted from other Federal departments or agencies shall be counted in the calculation of the Federal share of capital and annual operating and maintenance costs under subsection (c).

"(B) FUNDS ACCEPTED FROM THE PRIVATE SECTOR.—Funds accepted from the private sector under section 2(c)(7), if allocated to a Center, may not be considered in the calculation of the Federal share under subsection (c) of this section.

"(e) MEP ADVISORY BOARD.—

"(1) ESTABLISHMENT.—There is established within the Institute a Manufacturing Extension Partnership Advisory Board (in this subsection referred to as the 'MEP Advisory Board').

"(2) MEMBERSHIP.—

"(A) IN GENERAL.—The MEP Advisory Board shall consist of not fewer than 10 members broadly representative of stakeholders, to be appointed by the Director. At least two members shall be employed by or on an advisory board for the Centers, at least one member shall represent a community college, and at least five other members shall be from United States small businesses in the manufacturing sector. No member shall be an employee of the Federal Government.

"(B) TERM.—Except as provided in subparagraph (C) or (D), the term of office of each member of the MEP Advisory Board shall be 3 years.

"(C) VACANCIES.—Any member appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed for the remainder of such term.

"(D) SERVING CONSECUTIVE TERMS.—Any person who has completed two consecutive full terms of service on the MEP Advisory Board shall thereafter be ineligible for appointment during the 1-year period following the expiration of the second such term.

"(3) MEETINGS.—The MEP Advisory Board shall meet not less than two times annually and shall provide to the Director—

"(A) advice on Hollings Manufacturing Extension Partnership programs, plans, and policies;

"(B) assessments of the soundness of Hollings Manufacturing Extension Partnership plans and strategies; and

"(C) assessments of current performance against Hollings Manufacturing Extension Partnership program plans.

"(4) FEDERAL ADVISORY COMMITTEE ACT APPLICABILITY.—

"(A) IN GENERAL.—In discharging its duties under this subsection, the MEP Advisory Board shall function solely in an advisory capacity, in accordance with the Federal Advisory Committee Act.

"(B) EXCEPTION.—Section 14 of the Federal Advisory Committee Act shall not apply to the MEP Advisory Board.

"(5) REPORT.—The MEP Advisory Board shall transmit an annual report to the Secretary for transmittal to Congress within 30 days after the submission to Congress of the President's annual budget request in each year. Such report shall address the status of the program established pursuant to this section and comment on the relevant sections of the programmatic planning document and updates thereto transmitted to Congress by the Director under subsections (c) and (d) of section 23.

"(f) COMPETITIVE GRANT PROGRAM.—

"(1) ESTABLISHMENT.—The Director shall establish, within the Hollings Manufacturing Extension Partnership, under this section and section 26, a program of competitive awards among participants described in paragraph (2) for the purposes described in paragraph (3).

"(2) PARTICIPANTS.—Participants receiving awards under this subsection shall be the Centers, or a consortium of such Centers.

"(3) PURPOSE.—The purpose of the program under this subsection is to add capabilities to the Hollings Manufacturing Extension Partnership, including the development of projects to solve new or emerging manufacturing problems as determined by the Director, in consultation with the Director of the Hollings Manufacturing Extension Partnership program, the MEP Advisory Board, and small- and medium-sized manufacturers. One or more themes for the competition may be identified, which may vary from year to year, depending on the needs of manufacturers and the success of previous competitions. Centers may be reimbursed for costs incurred under the program.

"(4) APPLICATIONS.—Applications for awards under this subsection shall be submitted in such manner, at such time, and containing such information as the Director shall require, in consultation with the MEP Advisory Board.

"(5) SELECTION.—Awards under this subsection shall be peer reviewed and competitively awarded. The Director shall endeavor to have broad geographic diversity among selected proposals. The Director shall select proposals to receive awards that will—

"(A) improve the competitiveness of industries in the region in which the Center or Centers are located;

"(B) create jobs or train newly hired employees; and

"(C) promote the transfer and commercialization of research and technology from institutions of higher education, national laboratories, and nonprofit research institutes.

"(6) PROGRAM CONTRIBUTION.—Recipients of awards under this subsection shall not be required to provide a matching contribution.

"(7) GLOBAL MARKETPLACE PROJECTS.—In making awards under this subsection, the Director, in consultation with the MEP Advisory Board and the Secretary, may take into consideration whether an application has significant potential for enhancing the competitiveness of small- and medium-sized United States manufacturers in the global marketplace.

"(8) DURATION.—Awards under this subsection shall last no longer than 3 years.

"(g) EVALUATION OF OBSTACLES UNIQUE TO SMALL MANUFACTURERS.—The Director shall—

"(1) evaluate obstacles that are unique to small manufacturers that prevent such manufacturers from effectively competing in the global market;

"(2) implement a comprehensive plan to train the Centers to address such obstacles; and

''(3) facilitate improved communication between the Centers to assist such manufacturers in implementing appropriate, targeted solutions to such obstacles.

''(h) DEFINITIONS.—In this section—

''(1) the term 'area career and technical education school' has the meaning given such term in section 3 of the Carl D. Perkins Career and Technical Education Improvement Act of 2006 (20 U.S.C. 2302); and

''(2) the term 'community college' means an institution of higher education (as defined under section 101(a) of the Higher Education Act of 1965 (20 U.S.C. 1001(a))) at which the highest degree that is predominately awarded to students is an associate's degree.''.

SEC. 9. ELIMINATION OF OBSOLETE REPORTS.

Section 28 of the National Institute of Standards and Technology Act (15 U.S.C. 278n) is amended—

(1) by striking subsection (g); and

(2) in subsection (k)—

(A) in paragraph (3), by inserting ''and'' after the semicolon at the end;

(B) in paragraph (4)(B), by striking ''; and'' at the end and inserting a period; and

(C) by striking paragraph (5).

SEC. 10. MODIFICATIONS TO GRANTS AND COOPERATIVE AGREEMENTS.

Section 8(a) of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3706(a)) is amended by striking ''The total amount of any such grant or cooperative agreement may not exceed 75 percent of the total cost of the program.''.

SEC. 11. INFORMATION SYSTEMS STANDARDS CONSULTATION.

Notwithstanding any other provision of law, the National Institute of Standards and Technology shall not consult with the Department of Defense and the National Security Agency in contravention of section 20(c)(1) of the National Institute of Standards and Technology Act (15 U.S.C. 278g–3(c)(1)).

SEC. 12. UNITED STATES-ISRAELI COOPERATION.

It is the Sense of Congress that—

(1) partnerships that facilitate basic scientific research between the United States and Israel advance technology development, innovation, and commercialization leading to growth in various sectors, including manufacturing, and creating benefits for both nations;

(2) joint research and development agreements carried out through government organizations like the National Institute of Standards and Technology support these efforts;

(3) partnerships between the United States and Israel that further the basic scientific enterprise should be encouraged; and

(4) the National Institute of Standards and Technology should continue to facilitate scientific collaborations between Israel and United States technical agencies working in measurement science and standardization.

Passed the House of Representatives July 11, 2016.

Attest: KAREN L. HAAS,

Clerk.