

103^D CONGRESS
1ST SESSION

H. R. 1208

To establish the Civilian Technology Corporation to provide financial support for precommercial research and development in technologies that are significant to the technology base of the United States.

IN THE HOUSE OF REPRESENTATIVES

MARCH 3, 1993

Mr. SANGMEISTER introduced the following bill; which was referred to the Committee on Science, Space, and Technology

A BILL

To establish the Civilian Technology Corporation to provide financial support for precommercial research and development in technologies that are significant to the technology base of the United States.

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 “Civilian Technology
5 Corporation Act of 1993”.

6 **SEC. 2. ESTABLISHMENT OF CORPORATION.**

7 (a) IN GENERAL.—There shall be established a Civil-
8 ian Technology Corporation. The Corporation shall be op-

1 erated for the purpose of providing financial support for
2 precommercial research and development into technologies
3 that are significant to the technology base of the United
4 States.

5 (b) CORPORATION NOT AN ESTABLISHMENT OF THE
6 UNITED STATES.—The Corporation shall not be an agen-
7 cy or establishment of the United States.

8 (c) PRIVACY ACT.—Notwithstanding subsection (b),
9 the Corporation shall be treated as an agency for the pur-
10 poses of section 552a of title 5, United States Code.

11 **SEC. 3. INCORPORATION.**

12 The board of directors of the Corporation first ap-
13 pointed shall be the incorporators and shall take all nec-
14 essary actions to establish the Corporation, including the
15 filing of articles of incorporation.

16 **SEC. 4. DIRECTORS, OFFICERS, AND EMPLOYEES.**

17 (a) BOARD OF DIRECTORS.—

18 (1) APPOINTMENT AND NUMBER.—The Cor-
19 poration shall have a Board consisting of 9 individ-
20 uals appointed by the President with the advice and
21 consent of the Senate.

22 (2) QUALIFICATIONS.—The directors of the
23 Corporation shall have the following qualifications:

24 (A) Not more than 5 directors shall be
25 members of the same political party.

1 (B) The directors shall have technical,
2 business, or scientific expertise in civil research
3 and development or expertise in the area of eco-
4 nomics.

5 (C) Each director shall be a United States
6 Citizen.

7 (3) NO CONFLICT OF INTEREST.—A director
8 may not participate in the deliberations on, or vote
9 on, a matter regarding an application, claim, or
10 other matter pending before the Corporation, if, to
11 his knowledge, he, his spouse, minor child, parent,
12 sibling, partner, or organization, other than the Cor-
13 poration, in which he is serving as an officer, direc-
14 tor, trustee, partner, or employee, or any person
15 with whom he is negotiating or has any arrangement
16 concerning prospective employment, has a financial
17 interest in the matter. A director who violates this
18 paragraph shall be subject to removal from the
19 Board, but such a violation shall not impair, nullify,
20 or otherwise affect the validity of any otherwise law-
21 ful action by the Corporation in which such director
22 participated.

23 (4) COMPENSATION.—The compensation of the
24 Board shall be determined by the President with the
25 advice and consent of the Senate.

1 (5) TERMS AND VACANCIES.—Members of the
2 Board shall serve terms of 5 years, and may serve
3 a maximum of two terms. Any vacancy in the mem-
4 bership of the Board shall be filled in the manner
5 set forth in paragraph (1).

6 (6) NO FEDERAL EMPLOYEES.—An individual
7 who is a member of the Congress, or an officer or
8 employee of the United States, may not serve on the
9 Board.

10 (7) CHAIRPERSON AND VICE-CHAIRPERSON.—
11 The Chairperson and Vice-Chairperson of the Board
12 shall be selected by the President. The position of
13 Chairperson shall be a full-time position and the in-
14 dividual who serves as Chairperson may not serve in
15 any other salaried position.

16 (8) BYLAWS.—The Board is empowered to
17 adopt and amend bylaws governing the operation of
18 the Corporation. Such bylaws shall not be inconsis-
19 tent with the provisions of this Act or the articles of
20 incorporation of the Corporation.

21 (b) OFFICERS AND EMPLOYEES.—

22 (1) APPOINTMENT.—The Board shall appoint a
23 chief executive officer, who shall have the authority
24 to appoint such other officers and employees as he

1 deems necessary to carry out the provisions of this
2 Act and the functions of the Corporation.

3 (2) QUALIFICATIONS.—Officers and employees
4 of the Corporation shall have technical, business, or
5 administrative expertise in civil research and devel-
6 opment or expertise in the area of economics.

7 (3) NO CONFLICT OF INTEREST.—An officer or
8 employee may not participate in a matter regarding
9 an application, claim, or other matter pending before
10 the Corporation, if, to his knowledge, he, his spouse,
11 minor child, partner, or organization, other than the
12 Corporation, in which he is serving as an officer, di-
13 rector, trustee, partner, or employee, or any person
14 with whom he is negotiating or has any arrangement
15 concerning prospective employment, has a financial
16 interest in the matter. An officer or employee who
17 violates this paragraph shall be subject to termi-
18 nation, but such a violation shall not impair, nullify,
19 or otherwise affect the validity of any otherwise law-
20 ful action by the Corporation in which such officer
21 or employee participated.

22 (4) COMPENSATION.—The rates of compensa-
23 tion for all officers and employees shall be fixed by
24 the chief executive officer.

1 (5) TENURE.—Officers and employees shall
2 serve at the pleasure of the Board.

3 **SEC. 5. GENERAL POWERS.**

4 The Corporation shall have the power to do the fol-
5 lowing:

6 (1) Have succession in the name of the Cor-
7 poration.

8 (2) Adopt, alter, and use a corporate seal.

9 (3) Sue and be sued in the name of the Cor-
10 poration.

11 (4) Make and carry out contracts.

12 (5) Exercise such other incidental powers not
13 inconsistent with this Act that are necessary or ap-
14 propriate to carry out the purposes and functions of
15 the Corporation, including the usual powers con-
16 ferred upon a corporation by the District of Colum-
17 bia Business Corporation Act.

18 **SEC. 6. CIVILIAN TECHNOLOGY DEVELOPMENT FUND.**

19 (a) ESTABLISHMENT OF FUND.—There is estab-
20 lished in the Treasury of the United States the Civilian
21 Technology Development Fund. The Fund shall be admin-
22 istered by the Corporation in order to carry out the pur-
23 poses of this Act. The Fund shall consist of the amounts
24 appropriated under subsection (b).

1 (b) AUTHORIZATION OF APPROPRIATION.—There is
2 authorized to be appropriated \$5,000,000,000 to be depos-
3 ited into the Fund and to remain available until expended.

4 (c) EXPENDITURES FROM THE FUND.—

5 (1) IN GENERAL.—Amounts in the Fund shall
6 be made available without fiscal year limitation to
7 the Corporation for the purposes of providing finan-
8 cial support, through direct investment, loans, li-
9 censes, equity positions, and joint venture partner-
10 ships, to United States based consortia, private
11 United States businesses with promising research
12 agendas, and educational institutions participating
13 in joint research projects with private United States
14 businesses, for precommercial research and develop-
15 ment in technologies that are significant to the tech-
16 nology base of the United States. In providing such
17 financial support, the Corporation shall—

18 (A) invest in areas where the social rate of
19 return is expected to be high but where individ-
20 ual firms or consortia are unlikely to invest be-
21 cause the economic rate of return is expected to
22 be low;

23 (B) invest in precommercial areas where
24 the social rate of return on investments is ex-
25 pected to be higher than the expected rate of

1 return in the private sector, including research
2 and development projects that appear to have
3 the potential to enhance productivity and long-
4 term economic growth;

5 (C) invest exclusively in projects that were
6 initiated by industry and that include industry
7 participation; and

8 (D) except as provided in paragraph
9 (2)(B), invest in a project only if the Corpora-
10 tion shall be obligated to contribute not more
11 than 50 percent of the cost of such project.

12 (2) BOARD APPROVAL.—

13 (A) IN GENERAL.—No expenditures shall
14 be made under this subsection unless approved
15 by a majority vote of the Board following a con-
16 sideration of the factors referred to in para-
17 graph (1).

18 (B) INCREASED CONTRIBUTION.—Notwith-
19 standing paragraph (1)(D), the Corporation
20 may contribute more than 50 percent of the
21 cost of a project if the Board approves such a
22 contribution by a two-thirds vote.

23 (d) INVESTMENT OF EXCESS FUNDS.—If the Cor-
24 poration determines that the amount of money in the
25 Fund exceeds the current requirements of the Corpora-

1 tion, the Corporation may direct the Secretary of the
2 Treasury to invest such amounts as the Corporation
3 deems advisable, for such period as the Corporation di-
4 rects, in obligations of the United States, in obligations
5 guaranteed by the United States Government, or in such
6 other obligations or securities of the United States as the
7 Secretary of the Treasury deems appropriate.

8 **SEC. 7. CONSULTATION WITH FEDERAL AGENCIES AND DE-**
9 **PARTMENTS, AND WITH PRIVATE PARTIES.**

10 (a) CONSULTATION WITH FEDERAL AGENCIES.—In
11 carrying out this Act, the Board and the Corporation shall
12 consult frequently with the following Federal agencies and
13 departments: the Office of Management and Budget, the
14 Department of Energy, the Department of Defense, the
15 National Science Foundation, and the Office of Science
16 and Technology Policy.

17 (b) CONSULTATION WITH PRIVATE PARTIES.—In
18 carrying out this Act, the Board and the Corporation shall
19 solicit comments from private parties, including represent-
20 atives of both industry and labor organizations.

21 **SEC. 8. REVIEW OF CORPORATION BY BLUE RIBBON**
22 **PANEL.**

23 (a) APPOINTMENT OF PANEL.—Not later than 90
24 days after the President and the Congress have received
25 the report under section 10(b), the President, the Senate,

1 and the House of Representatives shall jointly appoint a
2 panel to carry out the review referred to in subsection (b).
3 The President shall appoint 3 members of the panel, the
4 Senate shall appoint 3 members of the panel, and the
5 House of Representatives shall appoint 3 members of the
6 panel.

7 (b) REVIEW BY PANEL.—Not later than 9 years after
8 the date of enactment of this Act, the panel shall conduct
9 a review of the performance of the Corporation to deter-
10 mine whether the Corporation—

11 (1) has had an overall positive effect on the
12 ability of the ability of United States industry to
13 commercialize and adopt new technologies;

14 (2) has invested in projects that exhibited a
15 high potential social rate of return if successful;

16 (3) has elicited strong, continuing support in
17 the private sector, particularly as reflected in the
18 willingness of firms to fund cooperative research and
19 development projects carried out under the sponsor-
20 ship of the Corporation; and

21 (4) should be terminated.

22 (c) REPORT.—Upon completion of the review referred
23 to in subsection (b), the panel shall submit a report to
24 the President, the Congress, and the Corporation. If the
25 panel determines that the Corporation should be termi-

1 nated, the report shall include a recommended termination
2 date.

3 **SEC. 9. AUDIT BY COMPTROLLER GENERAL.**

4 The Comptroller General of the United States is au-
5 thorized to audit the financial transactions of the Corpora-
6 tion, including the operations of the Fund. For the pur-
7 poses of carrying out such an audit, the Comptroller Gen-
8 eral shall have access to all books, records, and property
9 belonging to, or in the possession of, the Corporation or
10 a person or entity which has entered into a financial rela-
11 tionship with the Corporation, which pertain to the Cor-
12 poration and which are necessary to carry out the audit.
13 The Comptroller General shall make a report of each such
14 audit to the Congress and the President.

15 **SEC. 10. REPORTS.**

16 (a) INITIAL REPORT.—The Corporation shall, after
17 the completion of the 4th year after the date of enactment
18 of this Act, submit a report to the President and the Con-
19 gress concerning the activities of the Corporation in carry-
20 ing out the purposes of this Act. Such report shall include
21 a description of the activities, expenditures, and invest-
22 ments of the Corporation, an analysis of the social rate
23 of return of projects in which the Corporation partici-
24 pated, and projections of future activities, expenditures,
25 and investments.

1 (b) PREREVIEW REPORT.—The Corporation shall,
2 not later than 8 years after the date of enactment of this
3 Act, submit a report to the President and the Congress.
4 Such report shall contain the type of information referred
5 to in subsection (a).

6 **SEC. 11. ADMINISTRATION.**

7 (a) HEARINGS.—The Board may hold such hearings,
8 sit and act at such times and places, take such testimony,
9 receive such evidence, and publish or otherwise distribute
10 so much of its proceedings and reports as it may deem
11 advisable.

12 (b) OFFICE SPACE AND EQUIPMENT.—The Board
13 may acquire, furnish, and equip such office space as it
14 determines necessary.

15 (c) MAILS.—The Board is authorized to use the Unit-
16 ed States mails in the same manner and upon the same
17 conditions as Federal departments and agencies.

18 (d) NECESSARY EXPENSES.—The Board may incur
19 such necessary expenses and exercise such powers as are
20 consistent and reasonably required to perform its func-
21 tions.

22 (e) RECORDS.—To the extent permitted by law, all
23 appropriate records and papers of the Board shall be made
24 available for public inspection.

1 (f) AID FROM FEDERAL AGENCIES.—Upon the re-
2 quest of the Board, the head of a Federal department or
3 agency is authorized to—

4 (1) furnish to the Board such information as
5 the Board deems necessary for carrying out its func-
6 tions and as is available to the agency; and

7 (2) detail for temporary duty, on a reimburs-
8 able basis, such personnel as the Board deems nec-
9 essary to carry out its functions.

10 (g) MEETINGS.—

11 (1) NUMBER.—The Board shall meet quarterly
12 each year, and may meet additional times at the call
13 of the Chairperson.

14 (2) QUORUM.—A majority of the members of
15 the Board shall constitute a quorum.

16 (3) OPEN TO PUBLIC.—All meetings of the
17 Board held to conduct official business of the Cor-
18 poration shall be open to the public following reason-
19 able public notice, except that the Board may close
20 a meeting to the public if the Board determines by
21 a majority vote, at a meeting open to the public,
22 that it is necessary to close such meeting.

23 **SEC. 12. MISCELLANEOUS PROVISIONS.**

24 (a) JURISDICTION.—

1 (1) IN GENERAL.—Whenever the Corporation is
2 a party to any civil action under this Act, such ac-
3 tion shall be deemed to arise under the laws of the
4 United States. No attachment or execution may be
5 issued against the Corporation, or any property
6 thereof, prior to entry of final judgment.

7 (2) CITIZENSHIP OF CORPORATION.—The Cor-
8 poration shall be deemed to be a citizen only of the
9 District of Columbia for the purpose of determining
10 the original jurisdiction of the district courts of the
11 United States in civil actions to which the Corpora-
12 tion is a party.

13 (b) DISTRICT OF COLUMBIA LAWS RELATING TO
14 LEASES AND CONTRACTS.—Leases and contracts entered
15 into by the Corporation, regardless of the place where such
16 leases or contracts may be executed, shall be governed by
17 the laws of the District of Columbia.

18 (c) BUSINESS ACTIVITY AND QUALIFICATION; DIS-
19 TRICT OF COLUMBIA AS PRINCIPAL OFFICE AND PLACE
20 OF BUSINESS FOR PROCESS.—The Corporation shall be
21 deemed to be qualified to do business in each State in
22 which it performs any activity authorized under this Act.
23 The Corporation shall accept service of process addressed
24 by certified mail to the secretary of the Corporation at

1 its principal office and place of business in Washington,
2 District of Columbia.

3 **SEC. 13. DEFINITIONS.**

4 For purposes of this Act:

5 (1) The term “Board” means the board of di-
6 rectors of the Civilian Technology Corporation.

7 (2) The term “Corporation” means the Civilian
8 Technology Corporation established under sections 2
9 and 3.

10 (3) The term “Fund” means the Civilian Tech-
11 nology Development Fund established by section 6.

12 (4) The term “panel” means the panel estab-
13 lished by section 8.

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