

105TH CONGRESS  
1ST SESSION

# H. R. 1274

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IN THE SENATE OF THE UNITED STATES

APRIL 24, 1997

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

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## AN ACT

To authorize appropriations for the National Institute of Standards and Technology for fiscal years 1998 and 1999, 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,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “National Institute of  
3 Standards and Technology Authorization Act of 1997”.

4 **SEC. 2. AUTHORIZATION OF APPROPRIATIONS FOR SCI-**  
5 **ENTIFIC AND TECHNICAL RESEARCH AND**  
6 **SERVICES.**

7 (a) LABORATORY ACTIVITIES.—There are authorized  
8 to be appropriated to the Secretary of Commerce for the  
9 Scientific and Technical Research and Services laboratory  
10 activities of the National Institute of Standards and Tech-  
11 nology—

12 (1) \$278,563,000 for fiscal year 1998, of  
13 which—

14 (A) \$38,104,000 shall be for Electronics  
15 and Electrical Engineering;

16 (B) \$18,925,000 shall be for Manufactur-  
17 ing Engineering;

18 (C) \$31,791,000 shall be for Chemical  
19 Science and Technology;

20 (D) \$30,372,000 shall be for Physics;

21 (E) \$50,914,000 shall be for Material  
22 Science and Engineering;

23 (F) \$13,404,000 shall be for Building and  
24 Fire Research;

25 (G) \$47,073,000 shall be for Computer  
26 Science and Applied Mathematics;

1 (H) \$19,376,000 shall be for Technical As-  
2 sistance; and

3 (I) \$28,604,000 shall be for Research Sup-  
4 port; and

5 (2) \$286,919,890 for fiscal year 1999, of  
6 which—

7 (A) \$39,247,120 shall be for Electronics  
8 and Electrical Engineering;

9 (B) \$19,492,750 shall be for Manufactur-  
10 ing Engineering;

11 (C) \$32,744,730 shall be for Chemical  
12 Science and Technology;

13 (D) \$31,283,160 shall be for Physics;

14 (E) \$52,441,420 shall be for Material  
15 Science and Engineering;

16 (F) \$13,806,120 shall be for Building and  
17 Fire Research;

18 (G) \$48,485,190 shall be for Computer  
19 Science and Applied Mathematics;

20 (H) \$19,957,280 shall be for Technical As-  
21 sistance; and

22 (I) \$29,462,120 shall be for Research Sup-  
23 port.

24 (b) MALCOLM BALDRIGE NATIONAL QUALITY PRO-  
25 GRAM.—There are authorized to be appropriated to the

1 Secretary of Commerce for the Malcolm Baldrige National  
2 Quality Program under section 17 of the Stevenson-  
3 Wydler Technology Innovation Act of 1980 (15 U.S.C.  
4 3711a)—

5 (1) \$4,134,500 for fiscal year 1998; and

6 (2) \$5,289,000 for fiscal year 1999.

7 (c) CONSTRUCTION AND MAINTENANCE.—(1) There  
8 are authorized to be appropriated to the Secretary of Com-  
9 merce for construction and maintenance of facilities of the  
10 National Institute of Standards and Technology—

11 (A) \$16,692,000 for fiscal year 1998; and

12 (B) \$67,000,000 for fiscal year 1999.

13 (2) None of the funds authorized by paragraph  
14 (1)(B) for construction of facilities may be obligated un-  
15 less the Secretary of Commerce has certified to the Com-  
16 mittee on Science of the House of Representatives and the  
17 Committee on Commerce, Science, and Transportation of  
18 the Senate that the obligation of funds is consistent with  
19 a plan for meeting the facilities needs of the National In-  
20 stitute of Standards and Technology that the Secretary  
21 has transmitted to those committees.



1           (2) \$261,300,000 for fiscal year 1999, of  
2       which—

3           (A) \$150,000,000 shall be for the Ad-  
4       vanced Technology Program under section 28  
5       of the National Institute of Standards and  
6       Technology Act (15 U.S.C. 278n); and

7           (B) \$111,300,000 shall be for the Manu-  
8       facturing Extension Partnerships program  
9       under sections 5 and 26 of the National Insti-  
10      tute of Standards and Technology Act (15  
11      U.S.C. 278k and 278l).

12 **SEC. 5. NATIONAL INSTITUTE OF STANDARDS AND TECH-**  
13 **NOLOGY ACT AMENDMENTS.**

14       (a) AMENDMENTS.—Section 28 of the National Insti-  
15      tute of Standards and Technology Act (15 U.S.C. 278n)  
16      is amended—

17           (1) by striking “or contracts” in subsection  
18       (b)(1)(B), and inserting in lieu thereof “contracts,  
19       and, subject to the last sentence of this subsection,  
20       other transactions”;

21           (2) by inserting “and if the non-Federal partici-  
22       pants in the joint venture agree to pay at least 60  
23       percent of the total costs of the joint venture during  
24       the Federal participation period under this section,

1 which shall not exceed 5 years,” in subsection  
2 (b)(1)(B) after “participation to be appropriate,”;

3 (3) by striking “(ii) provision of a minority  
4 share of the cost of such joint ventures for up to 5  
5 years, and (iii)” in subsection (b)(1)(B), and insert-  
6 ing in lieu thereof “and (ii)”;

7 (4) by striking “and cooperative agreements” in  
8 subsection (b)(2), and inserting in lieu thereof “, co-  
9 operative agreements, and, subject to the last sen-  
10 tence of this subsection, other transactions”;

11 (5) by striking “, provided that emphasis is” in  
12 subsection (b)(2) and inserting in lieu thereof “on  
13 the condition that grant recipients (other than small  
14 businesses within the meaning of the Small Business  
15 Act) provide at least 60 percent of the costs of the  
16 project, with emphasis”;

17 (6) by adding after subsection (b)(4) the follow-  
18 ing:

19 “The authority under paragraph (1)(B) and paragraph  
20 (2) to enter into other transactions shall apply only if the  
21 Secretary, acting through the Director, determines that  
22 standard contracts, grants, or cooperative agreements are  
23 not feasible or appropriate, and only when other trans-  
24 action instruments incorporate terms and conditions that

1 reflect the use of generally accepted commercial account-  
2 ing and auditing practices.”;

3 (7) in subsection (d)(1), by inserting “and be of  
4 a nature and scope that would not be pursued in a  
5 timely manner without Federal assistance” after  
6 “technical merit”; and

7 (8) by adding at the end the following new sub-  
8 sections:

9 “(k) Notwithstanding subsection (b)(1)(B) and sub-  
10 section (d)(3), the Director may grant extensions beyond  
11 the deadlines established under those provisions for joint  
12 venture and single applicant awardees to expend Federal  
13 funds to complete their projects, if such extension may be  
14 granted with no additional cost to the Federal Government  
15 and it is in the Federal Government’s interest to do so.

16 “(l) The Secretary, acting through the Director, may  
17 vest title to tangible personal property in any recipient of  
18 financial assistance under this 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.

24 Vesting under this subsection shall be subject to such limi-  
25 tations as are prescribed by the Secretary, acting through

1 the Director, and shall be made without further obligation  
2 to the United States Government.”.

3 (b) **ADDITIONAL AMENDMENT.**—(1) Section 28 of  
4 the National Institute of Standards and Technology Act  
5 (15 U.S.C. 278n) is further amended by striking the pe-  
6 riod at the end of the first sentence of subsection  
7 (d)(11)(A) and inserting in lieu thereof the following: “or  
8 any other participant in a joint venture receiving financial  
9 assistance under this section, as agreed by the parties,  
10 notwithstanding the requirements of section 202 (a) and  
11 (b) of title 35, United States Code.”.

12 (2) The amendment made by this subsection shall be  
13 effective only with respect to assistance for which solicita-  
14 tions for proposals are made after the date of the enact-  
15 ment of this Act.

16 **SEC. 6. MANUFACTURING EXTENSION PARTNERSHIP PRO-**  
17 **GRAM CENTER EXTENSION.**

18 Section 25(c)(5) of the National Institute of Stand-  
19 ards and Technology Act (15 U.S.C. 278k(c)(5)) is  
20 amended by striking “, which are designed” and all that  
21 follows through “operation of a Center.” and inserting in  
22 lieu thereof “. After the sixth year, a Center may receive  
23 additional financial support under this section if it has re-  
24 ceived a positive evaluation through an independent re-  
25 view, under procedures established by the Institute. Such

1 an independent review shall be required at least every two  
2 years after the sixth year of operation. Funding received  
3 for a fiscal year under this section after the sixth year  
4 of operation shall not exceed the proportion of the capital  
5 and annual operating and maintenance costs of the Center  
6 received by the Center during its sixth year of operation.”.

7 **SEC. 7. MALCOLM BALDRIGE QUALITY AWARD.**

8 Section 17(c)(3) of the Stevenson-Wydler Technology  
9 Innovation Act of 1980 (15 U.S.C. 3711a(c)(3)) is amend-  
10 ed by inserting “, unless the Secretary determines that  
11 a third award is merited and can be given at no additional  
12 cost to the Federal Government” after “in any year”.

13 **SEC. 8. NEXT GENERATION INTERNET.**

14 None of the funds authorized by this Act, or any  
15 other Act enacted before the date of the enactment of this  
16 Act, may be used for the Next Generation Internet. Not-  
17 withstanding the previous sentence, funds may be used for  
18 the continuation of programs and activities that were  
19 funded and carried out during fiscal year 1997.

20 **SEC. 9. LIMITATIONS.**

21 (a) PROHIBITION OF LOBBYING ACTIVITIES.—None  
22 of the funds authorized by this Act shall be available for  
23 any activity whose purpose is to influence legislation pend-  
24 ing before the Congress, except that this subsection shall  
25 not prevent officers or employees of the United States or

1 of its departments or agencies from communicating to  
2 Members of Congress on the request of any Member or  
3 to Congress, through the proper channels, requests for leg-  
4 islation or appropriations which they deem necessary for  
5 the efficient conduct of the public business.

6 (b) LIMITATION ON APPROPRIATIONS.—No sums are  
7 authorized to be appropriated to the Director of the Na-  
8 tional Institute of Standards and Technology for fiscal  
9 years 1998 and 1999 for the activities for which sums are  
10 authorized by this Act, unless such sums are specifically  
11 authorized to be appropriated by this Act.

12 (c) ELIGIBILITY FOR AWARDS.—

13 (1) IN GENERAL.—The Director of the National  
14 Institute of Standards and Technology shall exclude  
15 from consideration for grant agreements made by  
16 the Institute after fiscal year 1997 any person who  
17 received funds, other than those described in para-  
18 graph (2), appropriated for a fiscal year after fiscal  
19 year 1997, under a grant agreement from any Fed-  
20 eral funding source for a project that was not sub-  
21 jected to a competitive, merit-based award process.  
22 Any exclusion from consideration pursuant to this  
23 subsection shall be effective for a period of 5 years  
24 after the person receives such Federal funds.

1           (2) EXCEPTION.—Paragraph (1) shall not  
2 apply to the receipt of Federal funds by a person  
3 due to the membership of that person in a class  
4 specified by law for which assistance is awarded to  
5 members of the class according to a formula pro-  
6 vided by law.

7           (3) DEFINITION.—For purposes of this sub-  
8 section, the term “grant agreement” means a legal  
9 instrument whose principal purpose is to transfer a  
10 thing of value to the recipient to carry out a public  
11 purpose of support or stimulation authorized by a  
12 law of the United States, and does not include the  
13 acquisition (by purchase, lease, or barter) of prop-  
14 erty or services for the direct benefit or use of the  
15 United States Government. Such term does not in-  
16 clude a cooperative agreement (as such term is used  
17 in section 6305 of title 31, United States Code) or  
18 a cooperative research and development agreement  
19 (as such term is defined in section 12(d)(1) of the  
20 Stevenson-Wydler Technology Innovation Act of  
21 1980 (15 U.S.C. 3710a(d)(1))).

22 **SEC. 10. NOTICE.**

23           (a) NOTICE OF REPROGRAMMING.—If any funds au-  
24 thorized by this Act are subject to a reprogramming action  
25 that requires notice to be provided to the Appropriations

1 Committees of the House of Representatives and the Sen-  
2 ate, notice of such action shall concurrently be provided  
3 to the Committee on Science of the House of Representa-  
4 tives and the Committee on Commerce, Science, and  
5 Transportation of the Senate.

6 (b) NOTICE OF REORGANIZATION.—The Secretary of  
7 Commerce shall provide notice to the Committees on  
8 Science and Appropriations of the House of Representa-  
9 tives, and the Committees on Commerce, Science, and  
10 Transportation and Appropriations of the Senate, not  
11 later than 15 days before any major reorganization of any  
12 program, project, or activity of the National Institute of  
13 Standards and Technology.

14 **SEC. 11. SENSE OF CONGRESS ON THE YEAR 2000 PROBLEM.**

15 With the year 2000 fast approaching, it is the sense  
16 of Congress that the National Institute of Standards and  
17 Technology should—

18 (1) give high priority to correcting all 2-digit  
19 date-related problems in its computer systems to en-  
20 sure that those systems continue to operate effec-  
21 tively in the year 2000 and beyond;

22 (2) assess immediately the extent of the risk to  
23 the operations of the Institute posed by the problems  
24 referred to in paragraph (1), and plan and budget

1 for achieving Year 2000 compliance for all of its  
2 mission-critical systems; and

3 (3) develop contingency plans for those systems  
4 that the Institute is unable to correct in time.

5 **SEC. 12. BUY AMERICAN.**

6 (a) COMPLIANCE WITH BUY AMERICAN ACT.—No  
7 funds appropriated pursuant to this Act may be expended  
8 by an entity unless the entity agrees that in expending  
9 the assistance the entity will comply with sections 2  
10 through 4 of the Act of March 3, 1933 (41 U.S.C. 10a–  
11 10c, popularly known as the “Buy American Act”).

12 (b) SENSE OF CONGRESS.—In the case of any equip-  
13 ment or products that may be authorized to be purchased  
14 with financial assistance provided under this Act, it is the  
15 sense of Congress that entities receiving such assistance  
16 should, in expending the assistance, purchase only Amer-  
17 ican-made equipment and products.

18 (c) NOTICE TO RECIPIENTS OF ASSISTANCE.—In  
19 providing financial assistance under this Act, the Sec-  
20 retary of Commerce shall provide to each recipient of the  
21 assistance a notice describing the statement made in sub-  
22 section (a) by the Congress.

Passed the House of Representatives April 24, 1997.

Attest:

ROBIN H. CARLE,

*Clerk.*