

Union Calendar No. 47

105<sup>TH</sup> CONGRESS  
1<sup>ST</sup> Session

**H. R. 1274**

[Report No. 105-64]

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## **A BILL**

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

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APRIL 21, 1997

Reported with an amendment, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed

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1<sup>ST</sup> SESSION**H. R. 1274****[Report No. 105-64]**

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## IN THE HOUSE OF REPRESENTATIVES

APRIL 10, 1997

Mrs. MORELLA introduced the following bill; which was referred to the Committee on Science

APRIL 21, 1997

Additional sponsors: Mr. BROWN of California, Mr. EHLERS, Mr. GORDON, Mr. DAVIS of Virginia, and Ms. JACKSON-LEE of Texas

APRIL 21, 1997

Reported with an amendment, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed

[Strike out all after the enacting clause and insert the part printed in italic]

[For text of introduced bill, see copy of bill as introduced on April 10, 1997]

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**A BILL**

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 which—*

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

15 (B) *\$18,925,000 shall be for Manufacturing*  
16 *Engineering;*

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

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

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

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

24 (G) *\$47,073,000 shall be for Computer*  
25 *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 which—

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

8           (B) \$19,492,750 shall be for Manufacturing  
9           Engineering;

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

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

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

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

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

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

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

23          (b) MALCOLM BALDRIGE NATIONAL QUALITY PRO-  
24          GRAM.—There are authorized to be appropriated to the Sec-  
25          retary of Commerce for the Malcolm Baldrige National

1 *Quality Program under section 17 of the Stevenson-Wydler*  
2 *Technology Innovation Act of 1980 (15 U.S.C. 3711a)—*

3 *(1) \$4,134,500 for fiscal year 1998; and*

4 *(2) \$5,289,000 for fiscal year 1999.*

5 *(c) CONSTRUCTION AND MAINTENANCE.—(1) There are*  
6 *authorized to be appropriated to the Secretary of Commerce*  
7 *for construction and maintenance of facilities of the Na-*  
8 *tional Institute of Standards and Technology—*

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

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

11 *(2) None of the funds authorized by paragraph (1)(B)*  
12 *for construction of facilities may be obligated unless the Sec-*  
13 *retary of Commerce has certified to the Committee on*  
14 *Science of the House of Representatives and the Committee*  
15 *on Commerce, Science, and Transportation of the Senate*  
16 *that the obligation of funds is consistent with a plan for*  
17 *meeting the facilities needs of the National Institute of*  
18 *Standards and Technology that the Secretary has transmit-*  
19 *ted to those committees.*

20 **SEC. 3. AUTHORIZATION OF APPROPRIATIONS FOR THE OF-**  
21 **FICE OF THE UNDER SECRETARY FOR TECH-**  
22 **NOLOGY.**

23 *There are authorized to be appropriated to the Sec-*  
24 *retary of Commerce for the activities of the Under Secretary*  
25 *for Technology and the Office of Technology Policy—*

1           (1) \$7,000,000 for fiscal year 1998; and

2           (2) \$7,205,000 for fiscal year 1999.

3 **SEC. 4. AUTHORIZATION OF APPROPRIATIONS FOR INDUS-**  
4 **TRIAL TECHNOLOGY SERVICES.**

5           *There are authorized to be appropriated to the Sec-*  
6 *retary of Commerce for the Industrial Technology Services*  
7 *activities of the National Institute of Standards and Tech-*  
8 *nology—*

9           (1) \$302,900,000 for fiscal year 1998, of which—

10                 (A) \$185,100,000 shall be for the *Advanced*  
11 *Technology Program under section 28 of the Na-*  
12 *tional Institute of Standards and Technology Act*  
13 *(15 U.S.C. 278n); and*

14                 (B) \$117,800,000 shall be for the *Manufac-*  
15 *turing Extension Partnerships program under*  
16 *sections 25 and 26 of the National Institute of*  
17 *Standards and Technology Act (15 U.S.C. 278k*  
18 *and 278l); and*

19           (2) \$261,300,000 for fiscal year 1999, of which—

20                 (A) \$150,000,000 shall be for the *Advanced*  
21 *Technology Program under section 28 of the Na-*  
22 *tional Institute of Standards and Technology Act*  
23 *(15 U.S.C. 278n); and*

24                 (B) \$111,300,000 shall be for the *Manufac-*  
25 *turing Extension Partnerships program under*

1           sections 5 and 26 of the National Institute of  
2           Standards and Technology Act (15 U.S.C. 278k  
3           and 278l).

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

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

9                   (1) by striking “or contracts” in subsection  
10                  (b)(1)(B), and inserting in lieu thereof “contracts,  
11                  and, subject to the last sentence of this subsection,  
12                  other transactions”;

13                   (2) by inserting “and if the non-Federal partici-  
14                  pants in the joint venture agree to pay at least 60  
15                  percent of the total costs of the joint venture during  
16                  the Federal participation period under this section,  
17                  which shall not exceed 5 years,” in subsection  
18                  (b)(1)(B) after “participation to be appropriate,”;

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

23                   (4) by striking “and cooperative agreements” in  
24                  subsection (b)(2), and inserting in lieu thereof “, co-

1       operative agreements, and, subject to the last sentence  
2       of this subsection, other transactions”;

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

9               (6) by adding after subsection (b)(4) the follow-  
10       ing:

11       *“The authority under paragraph (1)(B) and paragraph (2)*  
12       *to enter into other transactions shall apply only if the Sec-*  
13       *retary, acting through the Director, determines that stand-*  
14       *ard contracts, grants, or cooperative agreements are not fea-*  
15       *sible or appropriate, and only when other transaction in-*  
16       *struments incorporate terms and conditions that reflect the*  
17       *use of generally accepted commercial accounting and audit-*  
18       *ing practices.”;*

19               (7) in subsection (d)(1), by inserting “and be of  
20       a nature and scope that would not be pursued in a  
21       timely manner without Federal assistance” after  
22       “technical merit”; and

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

1       “(k) Notwithstanding subsection (b)(1)(B) and sub-  
2 section (d)(3), the Director may grant extensions beyond the  
3 deadlines established under those provisions for joint ven-  
4 ture and single applicant awardees to expend Federal funds  
5 to complete their projects, if such extension may be granted  
6 with no additional cost to the Federal Government and it  
7 is in the Federal Government’s interest to do so.

8       “(l) The Secretary, acting through the Director, may  
9 vest title to tangible personal property in any recipient of  
10 financial assistance under this section if—

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

13               “(2) the Secretary, acting through the Director,  
14 determines that the vesting of such property furthers  
15 the objectives of the Institute.

16 Vesting under this subsection shall be subject to such limita-  
17 tions as are prescribed by the Secretary, acting through the  
18 Director, and shall be made without further obligation to  
19 the United States Government.”.

20       (b) *ADDITIONAL AMENDMENT.*—(1) Section 28 of the  
21 *National Institute of Standards and Technology Act* (15  
22 *U.S.C. 278n*) is further amended by striking the period at  
23 the end of the first sentence of subsection (d)(11)(A) and  
24 inserting in lieu thereof the following: “or any other partici-  
25 pant in a joint venture receiving financial assistance under

1 *this section, as agreed by the parties, notwithstanding the*  
2 *requirements of section 202 (a) and (b) of title 35, United*  
3 *States Code.”.*

4 *(2) The amendment made by this subsection shall be*  
5 *effective only with respect to assistance for which solicita-*  
6 *tions for proposals are made after the date of the enactment*  
7 *of this Act.*

8 **SEC. 6. MANUFACTURING EXTENSION PARTNERSHIP PRO-**  
9 **GRAM CENTER EXTENSION.**

10 *Section 25(c)(5) of the National Institute of Standards*  
11 *and Technology Act (15 U.S.C. 278k(c)(5)) is amended by*  
12 *striking “, which are designed” and all that follows through*  
13 *“operation of a Center.” and inserting in lieu thereof “.*  
14 *After the sixth year, a Center may receive additional finan-*  
15 *cial support under this section if it has received a positive*  
16 *evaluation through an independent review, under proce-*  
17 *dures established by the Institute. Such an independent re-*  
18 *view shall be required at least every two years after the sixth*  
19 *year of operation. Funding received for a fiscal year under*  
20 *this section after the sixth year of operation shall not exceed*  
21 *the proportion of the capital and annual operating and*  
22 *maintenance costs of the Center received by the Center dur-*  
23 *ing its sixth year of operation.”.*

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

2 *Section 17(c)(3) of the Stevenson-Wydler Technology*  
3 *Innovation Act of 1980 (15 U.S.C. 3711a(c)(3)) is amended*  
4 *by inserting “, unless the Secretary determines that a third*  
5 *award is merited and can be given at no additional cost*  
6 *to the Federal Government” after “in any year”.*

7 **SEC. 8. NEXT GENERATION INTERNET.**

8 *None of the funds authorized by this Act, or any other*  
9 *Act enacted before the date of the enactment of this Act,*  
10 *may be used for the Next Generation Internet. Notwith-*  
11 *standing the previous sentence, funds may be used for the*  
12 *continuation of programs and activities that were funded*  
13 *and carried out during fiscal year 1997.*

14 **SEC. 9. LIMITATIONS.**

15 *(a) PROHIBITION OF LOBBYING ACTIVITIES.—None of*  
16 *the funds authorized by this Act shall be available for any*  
17 *activity whose purpose is to influence legislation pending*  
18 *before the Congress, except that this subsection shall not pre-*  
19 *vent officers or employees of the United States or of its de-*  
20 *partments or agencies from communicating to Members of*  
21 *Congress on the request of any Member or to Congress,*  
22 *through the proper channels, requests for legislation or ap-*  
23 *propriations which they deem necessary for the efficient*  
24 *conduct of the public business.*

25 *(b) LIMITATION ON APPROPRIATIONS.—No sums are*  
26 *authorized to be appropriated to the Director of the Na-*

1 *tional Institute of Standards and Technology for fiscal*  
2 *years 1998 and 1999 for the activities for which sums are*  
3 *authorized by this Act, unless such sums are specifically au-*  
4 *thorized to be appropriated by this Act.*

5 *(c) ELIGIBILITY FOR AWARDS.—*

6 *(1) IN GENERAL.—The Director of the National*  
7 *Institute of Standards and Technology shall exclude*  
8 *from consideration for grant agreements made by the*  
9 *Institute after fiscal year 1997 any person who re-*  
10 *ceived funds, other than those described in paragraph*  
11 *(2), appropriated for a fiscal year after fiscal year*  
12 *1997, under a grant agreement from any Federal*  
13 *funding source for a project that was not subjected to*  
14 *a competitive, merit-based award process. Any exclu-*  
15 *sion from consideration pursuant to this subsection*  
16 *shall be effective for a period of 5 years after the per-*  
17 *son receives such Federal funds.*

18 *(2) EXCEPTION.—Paragraph (1) shall not apply*  
19 *to the receipt of Federal funds by a person due to the*  
20 *membership of that person in a class specified by law*  
21 *for which assistance is awarded to members of the*  
22 *class according to a formula provided by law.*

23 *(3) DEFINITION.—For purposes of this sub-*  
24 *section, the term “grant agreement” means a legal in-*  
25 *strument whose principal purpose is to transfer a*

1        *thing of value to the recipient to carry out a public*  
2        *purpose of support or stimulation authorized by a*  
3        *law of the United States, and does not include the*  
4        *acquisition (by purchase, lease, or barter) of property*  
5        *or services for the direct benefit or use of the United*  
6        *States Government. Such term does not include a co-*  
7        *operative agreement (as such term is used in section*  
8        *6305 of title 31, United States Code) or a cooperative*  
9        *research and development agreement (as such term is*  
10       *defined in section 12(d)(1) of the Stevenson-Wydler*  
11       *Technology Innovation Act of 1980 (15 U.S.C.*  
12       *3710a(d)(1))).*

13       **SEC. 10. NOTICE.**

14        *(a) NOTICE OF REPROGRAMMING.—If any funds au-*  
15        *thorized by this Act are subject to a reprogramming action*  
16        *that requires notice to be provided to the Appropriations*  
17        *Committees of the House of Representatives and the Senate,*  
18        *notice of such action shall concurrently be provided to the*  
19        *Committee on Science of the House of Representatives and*  
20        *the Committee on Commerce, Science, and Transportation*  
21        *of the Senate.*

22        *(b) NOTICE OF REORGANIZATION.—The Secretary of*  
23        *Commerce shall provide notice to the Committees on Science*  
24        *and Appropriations of the House of Representatives, and*  
25        *the Committees on Commerce, Science, and Transportation*

1 *and Appropriations of the Senate, not later than 15 days*  
2 *before any major reorganization of any program, project,*  
3 *or activity of the National Institute of Standards and Tech-*  
4 *nology.*

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

6 *With the year 2000 fast approaching, it is the sense*  
7 *of Congress that the National Institute of Standards and*  
8 *Technology should—*

9 *(1) give high priority to correcting all 2-digit*  
10 *date-related problems in its computer systems to en-*  
11 *sure that those systems continue to operate effectively*  
12 *in the year 2000 and beyond;*

13 *(2) assess immediately the extent of the risk to*  
14 *the operations of the Institute posed by the problems*  
15 *referred to in paragraph (1), and plan and budget for*  
16 *achieving Year 2000 compliance for all of its mission-*  
17 *critical systems; and*

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

20 **SEC. 12. BUY AMERICAN.**

21 *(a) COMPLIANCE WITH BUY AMERICAN ACT.—No*  
22 *funds appropriated pursuant to this Act may be expended*  
23 *by an entity unless the entity agrees that in expending the*  
24 *assistance the entity will comply with sections 2 through*

1 4 of the Act of March 3, 1933 (41 U.S.C. 10a–10c, popu-  
2 larly known as the “Buy American Act”).

3 (b) *SENSE OF CONGRESS.*—*In the case of any equip-*  
4 *ment or products that may be authorized to be purchased*  
5 *with financial assistance provided under this Act, it is the*  
6 *sense of Congress that entities receiving such assistance*  
7 *should, in expending the assistance, purchase only Amer-*  
8 *ican-made equipment and products.*

9 (c) *NOTICE TO RECIPIENTS OF ASSISTANCE.*—*In pro-*  
10 *viding financial assistance under this Act, the Secretary of*  
11 *Commerce shall provide to each recipient of the assistance*  
12 *a notice describing the statement made in subsection (a)*  
13 *by the Congress.*