

individuals and companies which have made outstanding contributions in technology; and
 (5) encouraging the exchange of scientific and technical personnel among academia, industry, and Federal laboratories.

(Pub. L. 96-480, §3, Oct. 21, 1980, 94 Stat. 2312; Pub. L. 99-502, §9(b)(1), (f)(2), Oct. 20, 1986, 100 Stat. 1795, 1797.)

AMENDMENTS

1986—Par. (2). Pub. L. 99-502, §9(b)(1), substituted “cooperative research centers” for “centers for industrial technology”.

Par. (3). Pub. L. 99-502, §9(f)(2), inserted “, including inventions, software, and training technologies,”.

§ 3703. Definitions

As used in this chapter, unless the context otherwise requires, the term—

(1) “Office” means the Office of Technology Policy established under section 3704 of this title.

(2) “Secretary” means the Secretary of Commerce.

(3) “Under Secretary” means the Under Secretary of Commerce for Technology appointed under section 3704(b)(1) of this title.

(4) “Centers” means the Cooperative Research Centers established under section 3705 or 3707 of this title.

(5) “Nonprofit institution” means an organization owned and operated exclusively for scientific or educational purposes, no part of the net earnings of which inures to the benefit of any private shareholder or individual.

(6) “Federal laboratory” means any laboratory, any federally funded research and development center, or any center established under section 3705 or 3707 of this title that is owned, leased, or otherwise used by a Federal agency and funded by the Federal Government, whether operated by the Government or by a contractor.

(7) “Supporting agency” means either the Department of Commerce or the National Science Foundation, as appropriate.

(8) “Federal agency” means any executive agency as defined in section 105 of title 5 and the military departments as defined in section 102 of such title, as well as any agency of the legislative branch of the Federal Government.

(9) “Invention” means any invention or discovery which is or may be patentable or otherwise protected under title 35 or any novel variety of plant which is or may be protectable under the Plant Variety Protection Act (7 U.S.C. 2321 et seq.).

(10) “Made” when used in conjunction with any invention means the conception or first actual reduction to practice of such invention.

(11) “Small business firm” means a small business concern as defined in section 632 of this title and implementing regulations of the Administrator of the Small Business Administration.

(12) “Training technology” means computer software and related materials which are developed by a Federal agency to train employees of such agency, including but not limited to software for computer-based instructional systems and for interactive video disc systems.

(13) “Clearinghouse” means the Clearinghouse for State and Local Initiatives on Productivity, Technology, and Innovation established by section 3704a of this title.

(Pub. L. 96-480, §4, Oct. 21, 1980, 94 Stat. 2312; Pub. L. 99-502, §9(b)(2), (d), Oct. 20, 1986, 100 Stat. 1795, 1796; Pub. L. 100-418, title V, §5122(b), Aug. 23, 1988, 102 Stat. 1439; Pub. L. 100-519, title II, §201(d)(1), Oct. 24, 1988, 102 Stat. 2594; Pub. L. 102-245, title III, §304, Feb. 14, 1992, 106 Stat. 20; Pub. L. 106-404, §7(1), (2), Nov. 1, 2000, 114 Stat. 1745.)

REFERENCES IN TEXT

The Plant Variety Protection Act, referred to in par. (9), is Pub. L. 91-577, Dec. 24, 1970, 84 Stat. 1542, as amended, which is classified principally to chapter 57 (§2321 et seq.) of Title 7, Agriculture. For complete classification of this Act to the Code, see Short Title note set out under section 2321 of Title 7 and Tables.

AMENDMENTS

2000—Pars. (4), (6). Pub. L. 106-404 made technical amendments to references in original act which appear in text as references to sections 3705 and 3707 of this title.

1992—Par. (8). Pub. L. 102-245 inserted before period at end “, as well as any agency of the legislative branch of the Federal Government”.

1988—Par. (1). Pub. L. 100-519, §201(d)(1)(A), substituted “Technology Policy” for “Productivity, Technology, and Innovation”.

Par. (3). Pub. L. 100-519, §201(d)(1)(B), amended par. (3) generally, substituting provisions defining “Under Secretary” for provisions defining “Assistant Secretary”.

Par. (13). Pub. L. 100-418 added par. (13).

1986—Par. (1). Pub. L. 99-502, §9(b)(2)(A), substituted “Productivity, Technology, and Innovation” for “Industrial Technology”.

Par. (3). Pub. L. 99-502, §9(b)(2)(B), substituted “‘Assistant Secretary’ means the Assistant Secretary for Productivity, Technology, and Innovation” for “‘Director’ means the Director of the Office of Industrial Technology”.

Par. (4). Pub. L. 99-502, §9(b)(2)(C), substituted “Cooperative Research Centers” for “Centers for Industrial Technology”.

Par. (6). Pub. L. 99-502, §9(b)(2)(D), (E), redesignated par. (7) as (6), substituted “owned, leased, or otherwise used by a Federal agency and funded” for “owned and funded”, and struck out former par. (6) which defined “Board” to mean the National Industrial Technology Board established pursuant to section 3709 of this title.

Pars. (7) to (12). Pub. L. 99-502, §9(b)(2)(D), (d), redesignated pars. (7) and (8) as (6) and (7), respectively, and added pars. (8) to (12).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 638 of this title.

§ 3704. Commerce and technological innovation

(a) Establishment

There is established in the Department of Commerce a Technology Administration, which shall operate in accordance with the provisions, findings, and purposes of this chapter. The Technology Administration shall include—

(1) the National Institute of Standards and Technology;

(2) the National Technical Information Service; and

(3) a policy analysis office, which shall be known as the Office of Technology Policy.

(b) Under Secretary and Assistant Secretary

The President shall appoint, by and with the advice and consent of the Senate, to the extent provided for in appropriations Acts—

(1) an Under Secretary of Commerce for Technology, who shall be compensated at the rate provided for level III of the Executive Schedule in section 5314 of title 5; and

(2) an Assistant Secretary of Commerce for Technology Policy, who shall serve as policy analyst for the Under Secretary.

(c) Duties

The Secretary, through the Under Secretary, as appropriate, shall—

(1) manage the Technology Administration and supervise its agencies, programs, and activities;

(2) conduct technology policy analyses to improve United States industrial productivity, technology, and innovation, and cooperate with United States industry in the improvement of its productivity, technology, and ability to compete successfully in world markets;

(3) carry out any functions formerly assigned to the Office of Productivity, Technology, and Innovation;

(4) assist in the implementation of the Metric Conversion Act of 1975 [15 U.S.C. 205a et seq.];

(5) determine the relationships of technological developments and international technology transfers to the output, employment, productivity, and world trade performance of United States and foreign industrial sectors;

(6) determine the influence of economic, labor and other conditions, industrial structure and management, and government policies on technological developments in particular industrial sectors worldwide;

(7) identify technological needs, problems, and opportunities within and across industrial sectors that, if addressed, could make a significant contribution to the economy of the United States;

(8) assess whether the capital, technical and other resources being allocated to domestic industrial sectors which are likely to generate new technologies are adequate to meet private and social demands for goods and services and to promote productivity and economic growth;

(9) propose and support studies and policy experiments, in cooperation with other Federal agencies, to determine the effectiveness of measures with the potential of advancing United States technological innovation;

(10) provide that cooperative efforts to stimulate industrial innovation be undertaken between the Under Secretary and other officials in the Department of Commerce responsible for such areas as trade and economic assistance;

(11) encourage and assist the creation of centers and other joint initiatives by State or local governments, regional organizations, private businesses, institutions of higher education, nonprofit organizations, or Federal laboratories to encourage technology transfer, to stimulate innovation, and to promote an appropriate climate for investment in technology-related industries;

(12) propose and encourage cooperative research involving appropriate Federal entities, State or local governments, regional organizations, colleges or universities, nonprofit orga-

nizations, or private industry to promote the common use of resources, to improve training programs and curricula, to stimulate interest in high technology careers, and to encourage the effective dissemination of technology skills within the wider community;

(13) serve as a focal point for discussions among United States companies on topics of interest to industry and labor, including discussions regarding manufacturing and discussions regarding emerging technologies;

(14) consider government measures with the potential of advancing United States technological innovation and exploiting innovations of foreign origin; and

(15) publish the results of studies and policy experiments.

(d) Japanese technical literature

(1) In addition to the duties specified in subsection (c) of this section, the Secretary and the Under Secretary shall establish, and through the National Technical Information Service and with the cooperation of such other offices within the Department of Commerce as the Secretary considers appropriate, maintain a program (including an office in Japan) which shall, on a continuing basis—

(A) monitor Japanese technical activities and developments;

(B) consult with businesses, professional societies, and libraries in the United States regarding their needs for information on Japanese developments in technology and engineering;

(C) acquire and translate selected Japanese technical reports and documents that may be of value to agencies and departments of the Federal Government, and to businesses and researchers in the United States; and

(D) coordinate with other agencies and departments of the Federal Government to identify significant gaps and avoid duplication in efforts by the Federal Government to acquire, translate, index, and disseminate Japanese technical information.

Activities undertaken pursuant to subparagraph (C) of this paragraph shall only be performed on a cost-reimbursable basis. Translations referred to in such subparagraph shall be performed only to the extent that they are not otherwise available from sources within the private sector in the United States.

(2) Beginning in 1986, the Secretary shall prepare annual reports regarding important Japanese scientific discoveries and technical innovations in such areas as computers, semiconductors, biotechnology, and robotics and manufacturing. In preparing such reports, the Secretary shall consult with professional societies and businesses in the United States. The Secretary may, to the extent provided in advance by appropriation Acts, contract with private organizations to acquire and translate Japanese scientific and technical information relevant to the preparation of such reports.

(3) The Secretary also shall encourage professional societies and private businesses in the United States to increase their efforts to acquire, screen, translate, and disseminate Japanese technical literature.

(4) In addition, the Secretary shall compile, publish, and disseminate an annual directory which lists—

(A) all programs and services in the United States that collect, abstract, translate, and distribute Japanese scientific and technical information; and

(B) all translations of Japanese technical documents performed by agencies and departments of the Federal Government in the preceding 12 months that are available to the public.

(5) The Secretary shall transmit to the Congress, within 1 year after August 14, 1986, a report on the activities of the Federal Government to collect, abstract, translate, and distribute declassified Japanese scientific and technical information.

(e) Omitted

(f) Experimental Program to Stimulate Competitive Technology

(1) In general

The Secretary, acting through the Under Secretary, shall establish for fiscal year 1999 a program to be known as the Experimental Program to Stimulate Competitive Technology (referred to in this subsection as the “program”). The purpose of the program shall be to strengthen the technological competitiveness of those States that have historically received less Federal research and development funds than those received by a majority of the States.

(2) Arrangements

In carrying out the program, the Secretary, acting through the Under Secretary, shall—

(A) enter into such arrangements as may be necessary to provide for the coordination of the program through the State committees established under the Experimental Program to Stimulate Competitive Research of the National Science Foundation; and

(B) cooperate with—

(i) any State science and technology council established under the program under subparagraph (A); and

(ii) representatives of small business firms and other appropriate technology-based businesses.

(3) Grants and cooperative agreements

In carrying out the program, the Secretary, acting through the Under Secretary, may make grants or enter into cooperative agreements to provide for—

(A) technology research and development;

(B) technology transfer from university research;

(C) technology deployment and diffusion; and

(D) the strengthening of technological capabilities through consortia comprised of—

(i) technology-based small business firms;

(ii) industries and emerging companies;

(iii) universities; and

(iv) State and local development agencies and entities.

(4) Requirements for making awards

(A) In general

In making awards under this subsection, the Secretary, acting through the Under Secretary, shall ensure that the awards are awarded on a competitive basis that includes a review of the merits of the activities that are the subject of the award.

(B) Matching requirement

The non-Federal share of the activities (other than planning activities) carried out under an award under this subsection shall be not less than 25 percent of the cost of those activities.

(5) Criteria for States

The Secretary, acting through the Under Secretary, shall establish criteria for achievement by each State that participates in the program. Upon the achievement of all such criteria, a State shall cease to be eligible to participate in the program.

(6) Coordination

To the extent practicable, in carrying out this subsection, the Secretary, acting through the Under Secretary, shall coordinate the program with other programs of the Department of Commerce.

(7) Report

(A) In general

Not later than 90 days after October 30, 1998, the Under Secretary shall prepare and submit a report that meets the requirements of this paragraph to the Secretary. Upon receipt of the report, the Secretary shall transmit a copy of the report to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Science of the House of Representatives.

(B) Requirements for report

The report prepared under this paragraph shall contain with respect to the program—

(i) a description of the structure and procedures of the program;

(ii) a management plan for the program;

(iii) a description of the merit-based review process to be used in the program;

(iv) milestones for the evaluation of activities to be assisted under the program in fiscal year 1999;

(v) an assessment of the eligibility of each State that participates in the Experimental Program to Stimulate Competitive Research of the National Science Foundation to participate in the program under this subsection; and

(vi) the evaluation criteria with respect to which the overall management and effectiveness of the program will be evaluated.

(Pub. L. 96-480, § 5, Oct. 21, 1980, 94 Stat. 2312; Pub. L. 99-382, § 2, Aug. 14, 1986, 100 Stat. 811; Pub. L. 99-502, § 9(b)(3)-(5), (e)(2)(A), Oct. 20, 1986, 100 Stat. 1795, 1797; Pub. L. 100-519, title II, § 201(a)-(c), (d)(2), Oct. 24, 1988, 102 Stat. 2593, 2594; Pub. L. 102-245, title III, § 306, Feb. 14, 1992, 106 Stat. 20; Pub. L. 105-309, § 9, Oct. 30, 1998, 112

Stat. 2938; Pub. L. 106-404, §7(3), Nov. 1, 2000, 114 Stat. 1745.)

REFERENCES IN TEXT

The Metric Conversion Act of 1975, referred to in subsec. (c)(4), is Pub. L. 94-168, Dec. 23, 1975, 89 Stat. 1007, as amended, which is classified generally to subchapter II (§205a et seq.) of chapter 6 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 205a of this title and Tables.

CODIFICATION

Subsec. (e) of this section, which required Secretary to prepare and submit to President and Congress, within 3 years after Oct. 21, 1980, a report on progress, findings, and conclusions of activities conducted pursuant to this section and sections 3705, 3707, 3710, 3711, and 3712 of this title (as then in effect) and recommendations for possible modifications thereof, was omitted from the Code.

AMENDMENTS

2000—Subsec. (c)(11). Pub. L. 106-404 substituted “State or local governments” for “State of local governments”.

1998—Subsec. (f). Pub. L. 105-309 added subsec. (f).

1992—Subsec. (c)(13) to (15). Pub. L. 102-245 added par. (13) and redesignated former pars. (13) and (14) as (14) and (15), respectively.

1988—Subsec. (a). Pub. L. 100-519, §201(a), amended subsec. (a) generally. Prior to amendment, subsec. (a) read as follows: “The Secretary shall establish and maintain an Office of Productivity, Technology, and Innovation in accordance with the provisions, findings, and purposes of this chapter.”

Subsec. (b). Pub. L. 100-519, §201(b), amended subsec. (b) generally. Prior to amendment, subsec. (b) read as follows: “The President shall appoint, by and with the advice and consent of the Senate, an Assistant Secretary for Productivity, Technology, and Innovation.”

Subsec. (c). Pub. L. 100-519, §201(c)(2), substituted “Under Secretary, as appropriate,” for “Assistant Secretary, on a continuing basis,” in introductory provisions.

Subsec. (c)(1) to (9). Pub. L. 100-519, §201(c)(1), (2), added pars. (1) to (4) and redesignated former pars. (1) to (5) as (5) to (9), respectively. Former pars. (6) to (9) redesignated (10) to (13), respectively.

Subsec. (c)(10). Pub. L. 100-519, §201(c)(1), (3), redesignated former par. (6) as (10) and substituted “Under Secretary” for “Assistant Secretary”. Former par. (10) redesignated (14).

Subsec. (c)(11) to (14). Pub. L. 100-519, §201(c)(1), redesignated former pars. (7) to (10) as (11) to (14), respectively.

Subsec. (d)(1). Pub. L. 100-519, §201(d)(2), substituted “and the Under Secretary shall establish, and through the National Technical Information Service and with the cooperation of” for “shall establish and, through the National Technical Information Service and”.

1986—Subsec. (a). Pub. L. 99-502, §9(b)(3), substituted “Office of Productivity, Technology, and Innovation” for “Office of Industrial Technology”.

Subsec. (b). Pub. L. 99-502, §9(b)(4), substituted “an Assistant Secretary for Productivity, Technology, and Innovation” for “a Director of the Office, who shall be compensated at the rate provided for level V of the Executive Schedule in section 5316 of title 5”.

Subsec. (c). Pub. L. 99-502, §9(b)(5)(A), substituted “the Assistant Secretary” for “the Director” in provisions preceding par. (1).

Subsec. (c)(6). Pub. L. 99-502, §9(b)(5)(A), substituted “the Assistant Secretary” for “the Director”.

Subsec. (c)(7) to (10). Pub. L. 99-502, §9(b)(5)(B), (C), added pars. (7) and (8) and redesignated former pars. (7) and (8) as (9) and (10), respectively.

Subsec. (d). Pub. L. 99-382, §2(2), added subsec. (d). Former subsec. (d) redesignated (e).

Subsec. (e). Pub. L. 99-502, §9(e)(2)(A), which directed the insertion of “(as then in effect)” in subsec. (d), was

executed to subsec. (e) to reflect the probable intent of Congress in view of the redesignation of subsec. (d) as (e) by Pub. L. 99-382.

Pub. L. 99-382, §2(1), redesignated subsec. (d) as (e).

TRANSITION PROVISION

Section 201(e) of Pub. L. 100-519 provided that: “The individual serving as the Assistant Secretary of Commerce for Productivity, Technology, and Innovation immediately before the date of enactment of this Act [Oct. 24, 1988] shall serve as Acting Assistant Secretary of Commerce for Technology Policy until the Assistant Secretary takes office.”

COMMERCIAL SPACE PROGRAMS

Section 201(f) of Pub. L. 100-519, as added by Pub. L. 100-685, title II, §219, Nov. 17, 1988, 102 Stat. 4095, provided that: “Nothing in this section [amending sections 3703, 3704, and 3710 of this title and section 5314 of Title 5, Government Organization and Employees, and enacting provisions set out as a note above] authorizes the Department to establish an Office of Commercial Space Programs or to place such an office into the Technology Administration without prior authorization of the Congress.”

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 3703, 3713 of this title.

§ 3704a. Clearinghouse for State and Local Initiatives on Productivity, Technology, and Innovation

(a) Establishment

There is established within the Office of Productivity, Technology, and Innovation a Clearinghouse for State and Local Initiatives on Productivity, Technology, and Innovation. The Clearinghouse shall serve as a central repository of information on initiatives by State and local governments to enhance the competitiveness of American business through the stimulation of productivity, technology, and innovation and Federal efforts to assist State and local governments to enhance competitiveness.

(b) Responsibilities

The Clearinghouse may—

(1) establish relationships with State and local governments, and regional and multistate organizations of such governments, which carry out such initiatives;

(2) collect information on the nature, extent, and effects of such initiatives, particularly information useful to the Congress, Federal agencies, State and local governments, regional and multistate organizations of such governments, businesses, and the public throughout the United States;

(3) disseminate information collected under paragraph (2) through reports, directories, handbooks, conferences, and seminars;

(4) provide technical assistance and advice to such governments with respect to such initiatives, including assistance in determining sources of assistance from Federal agencies which may be available to support such initiatives;

(5) study ways in which Federal agencies, including Federal laboratories, are able to use their existing policies and programs to assist State and local governments, and regional and multistate organizations of such governments,