investments are defined as a 5% equity interest in a U.S. business that has assets of $5,000,000 or sales of $10,000,000 or an equity interest in real property with a market value of $10,000,000. A controlling interest is defined as a 25% equity interest in a U.S. business that has assets or sales of $20,000,000. A major portfolio interest means any equity interest with a market value of $50,000,000 in a U.S. business.

All three types of interests must register with the Secretary of Commerce. This registration must include:

(1) the identity, address, legal nature, industry and nationality of the foreign person,

(2) the date on which the foreign person acquired the interest,

(3) the relation of the foreign person to the U.S. property,

(4) the name, location and industry of the U.S. property, and

(5) the size of the interest acquired and the price paid.

If the interest is a controlling interest, additional information is required. The foreign investor must file an English translation of any public financial disclosures filed in the home country. For the U.S. business that is being acquired, the foreign investor must file a balance sheet and income statement, location of all U.S. facilities, the identity and nationality of all directors and executive officers, compensation of executives and any related business transactions of any director, along with a description of any significant civil litigation the business has been involved with the past year.

For significant and controlling interests, registration is required within 30 days. For portfolio interests, registration is required 90 days after the end of the calendar year when the interest was acquired. The additional financial information for controlling interests must be filed within 6 months. There are civil penalties for late filing and criminal penalties for failing to file or filing false information.

Within one year of enactment, the Secretary is required to prepare an inventory of the reports filed by registered interests with indexing by name and nationality of foreign investor and by name of the U.S. business. This inventory is to be made available to the public.

Senate amendment

The Senate amendment has no provision.

Conference agreement

The House recedes to the Senate.

SUBTITLE B—TECHNOLOGY

PART 1. TECHNOLOGY COMPETITIVENESS

Section 5101. Short Title

Present law

No Provision.

House bill

No provision in H.R. 3. (The House position in part 1 is based on H.R. 2160 as passed by the House and on H.R. 2916 as reported by the Committee on Science, Space, and Technology. The short title of H.R. 2916 is the Technology Competitiveness Act.)

Senate amendment

No provision. (However, S. 907 as reported by the Senate Commerce, Science, and Transportation Subcommittee uses the short title Technology Competitiveness Act; S. 907's provisions as reported are identical to the Title XL through XLV of the Senate version of the Trade bill, the Omnibus Trade and Competitiveness Act of 1987 as introduced.)

Conference agreement

Part 1 may be cited as the Technology Competitiveness Act.

Subpart A—National Institute of Standards and Technology

Section 5111. Findings and Purposes

Present Law

Section 1 of the National Bureau of Standards Act of March 3, 1901 (NBS Act) (15 U.S.C. 271) changes the name of the Office of Standards and Weights to the National Bureau of Standards (NBS).

House bill

No provision in H.R. 3. (H.R. 2916 presents findings and purposes for a bill to strengthen the NBS Act and the Stevenson-Wydler Act of 1980. It also renames NBS as the National Institute of Standards and Technology.

Senate amendment

Replaces Section 1 of the NBS Act with findings and purposes.

Conference agreement

The Conferees agreed to amend Section 1 of the NBS Act by substituting findings and purposes for the original text. The proposed compromise text accepts most of the findings of the House and Senate versions. The findings emphasize the importance of a strong manufacturing base to a healthy American economy, and the continued importance of precise measurements, calibrations, and quality assurance standards in retaining that base. The Conferees' compromise on purposes combines both House and Senate versions by adding to the House position those elements of the Senate version which were not already included.

This section renames NBS as the National Institute of Standards and Technology (NIST). The Conferees agreed to this new name to reflect not only the enhanced role and responsibility assigned to NBS but also to stress NBS's traditional function of providing the measurements, calibrations and quality assurance standards which are vital to U.S. commerce and constitute the very fundamentals for a vibrant U.S. industrial base. The new name reflects the ulti-

mate goal of NIST, which is to support and enhance the technological competitiveness of the United States.

Section 5112(a). Establishment, Functions and Activities

Present law

Section 2 of the NBS Act authorizes the Secretary of Commerce to undertake specific activities in the development, maintenance, and dissemination of standards and measurements.

House bill

No provision in H.R. 3. (H.R. 2916, Section 5 establishes the functions and activities for science and technology laboratories under the purview of NIST.)

Senate amendment

Identifies the specific responsibilities of the Secretary of Commerce to improve and expand the functions of National Institute of Technology (the Institute).

Conference agreement

The Conferees agreed to amend Section 2 of the NBS Act by using the Senate language on the establishment of a science, engineering, measurement, and technology laboratory within the Department of Commerce to be known as the NIST. The Conferees accepted the House language in stating the functions and activities of NIST. There was little difference in the provisions stated in both texts. The Senate format, modified to list the functions of NIST as functions of the "Secretary of Commerce acting through the Director and if appropriate, through other officials", is adopted. This will permit the Secretary of Commerce to have the usual prerogatives of his office, including assigning general authorities contained in this section to more than one component of the Department of Commerce, while making sure all activites of NIST are carried out by it. It permits temporary assignments of employees within the Department of Commerce but is not designed to supersede section 5 of the NBS Act which places the NIST Director in charge of all NIST functions. Therefore, the phrase "through other officials", when used here and elsewhere in this Act, is to be construed narrowly and does not permit transfer from NIST of scientific, technical, or administrative functions.

NIST is specifically required to carry out every function now assigned to NBS, including all of its functions as the Nation's national standards and measurement laboratory. The rewording of the statute significantly expands the role of NIST as the government's lead laboratory in support of U.S. industrial quality and competitiveness while retaining and encouraging growth and modernization of the core metrology mission. Of necessity, NIST general authority has been described in very broad language. This is to avoid artificial limitations in the future of NIST activities which are not foreseeable at this time but which are also in the national interest. NIST, on the other hand, must remember that its mission is the promotion of the competitiveness of U.S. industry through standards work and other means. Certain other federal laboratories have

major capabilities in support of U.S. competitiveness and as a general rule are the ones best able to promote and to transfer their own technologies to the U.S. private sector.

NIST is expected to be constantly on guard to make sure that its activities do not duplicate or replace those more properly undertaken by the private sector or other government agencies. For instance, the authorities permitting NIST to work with ionizing and non-ionizing radiation and to determine the atomic and molecular structure of matter are largely a restatement of existing authority and are not to be construed as affecting the jurisdiction of other agencies intimately involved in these areas such as the Department of Energy, the Environmental Protection Agency, the National Institutes of Health, and the National Institute of Occupational Safety and Health. The Conferees continue to support the policy statement of the Federal Technology Transfer Act of 1986 that "technology transfer is a responsibility of every laboratory's scientific and engineering professional", that these professionals where feasible should participate "in state, local, and regional technology efforts", and that each agency and federal laboratory accelerate their technology transfer efforts to achieve full compliance with that legislation.

Section 5112(b). Other Functions of Secretary

Present law

No provision.

House bill

No provision.

Senate amendment

Contains two activities associated with telecommunication sciences that are accomplished under the auspices of the National Telecommunications and Information Administration (NTIA).

Conference agreement

The Conferees agreed to move activities 10 and 11 from the Senate bill to a new subsection since they are primarily activities of the NTIA rather than NIST and to codify certain other NTIA functions. Traditionally, the NBS Act has served as the statutory authority for the Department's telecommunications research, and the conferees wished to ensure that NTIA has permanent and unambiguous legal authority to carry out its mission. The inclusion of the telecommunication language in the new statement of mission for NIST is not to be interpreted as a transfer of the work from NTIA to NIST or vice versa.

Section 5112(c). Director of NIST

Present law

Section 5 of the NBS Act describes the process by which the NBS Director is selected as well as overall responsibilities, requirements and compensation of that office.

House bill

No provision in H.R. 3. (H.R. 2916 modifies Section 5 of the NBS Act to specify the appointment process for the NIST Director, the responsibilities of the NIST Director, and the requirements of that office.)

Senate amendment

No provision.

Conference agreement

The Conferees agreed to accept the House provision amending Section 5 of the NBS Act related to the appointment and duties of the NIST Director after striking archaic language carried forward from the Act. In order to assure a smooth transition, the current NBS Director is designated as the NIST Director until the NIST Director is installed in office. This section makes clear that NIST, like NBS before it, is to be run as a discrete entity with general supervisory powers in the NIST Director. Nothing in this Act is to be construed as giving the Department of Commerce the authority to transfer control of portions of NIST to officers other than the NIST Director. The NIST Director is compensated at ES Level IV.

Section 5112(d). Organization Plan

Present law

No provision.

House bill

No provision in H.R. 3. (H.R. 2916 requires the Director to submit an organization plan for NIST not later than 120 days after enactment of this Act, and at least 60 days prior to the effective date of the plan.)

Senate amendment

No provision.

Conference agreement

The Conferees agreed to the House provision requiring an organization plan for NIST to be submitted to its Congressional authorizing committees at least 60 days before the plan's effective date and 120 days after enactment of this legislation. The organization plan is to establish the major operating units of NIST and to distribute the activities and functions listed in the new section 2(c) of the NBS Act. The NIST Director may revise the organization plan after a formal 60-day notification of Congress. The Conferees further agreed that the organization of NIST will follow that of NBS until the effective date of the organization plan. The Conferees mandated that the Center for Fire Research and the Center for Building Technology must continue in their current forms under this plan.

Section 5113. Repeal of Provisions

Present law

The first sections of the Acts of July 16, 1914, March 4, 1913, and May 14, 1930.

House bill

No provision in H.R. 3. (H.R. 2916 repeals the first section of the Act of July 16, 1914, the first section of the Act of March 4, 1913, and the first section of Act of May 14, 1930.)

Senate amendment

Same provisions as in H.R. 2916.

Conference agreement

This section was identical in both the House and Senate bills and merely repeals archaic language or provisions of the original NBS Act that no longer apply.

Section 5114. Reports to Congress; Studies by the National Research Council

Present law

No provision.

House bill

No provision in H.R. 3. (H.R. 2160 amends the NBS Organic Act by adding one new section which requires the NIST Director to inform Congress of all activities, and also requires the NIST Director to justify all changes in fees.)

Senate amendment

Establishes two new sections in the NBS Act which require the Institute's Director to inform Congress of all activities and to justify changes in fee policy, and specifies that the Director has the authority to contract with the National Academy of Engineering and the National Academy of Sciences (Academies).

Conference agreement

The Conferees agreed to accept the Senate language and amend the NBS Act by adding two new sections. The new section 23 requires the NIST Director to keep the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Science, Space, and Technology of the House of Representatives fully and currently informed with regard to all activities of NIST and requires the NIST Director to justify to the Congress in advance and in writing all changes in policies regarding fees for NIST services to industry. Section 24, Studies By The National Research Council, makes it clear that this NIST Director has the authority periodically to contract with the Council for advice and studies.

Section 5115. Technical Amendments

Present law

No provision.

House bill

No provision in H.R. 3. (H.R. 2916 specifies that all laws referencing NBS shall now be deemed to refer to NIST.)

Senate amendment

Amends the NBS Act by modifying all references to "NBS" and "Bureau", and substituting "NIT" and "Institute".

Conference agreement

This section was rewritten to include the substance of both the House and Senate provisions reflecting the redesignation of NBS as NIST. The technical amendments which make up section 4504 of the Senate bill are moved to this section. The technical amendments make sure that references in any other Federal law to NBS shall be deemed to refer to NIST.

Subpart B—Technology Extension Activities and Clearinghouse on State and Local Initiatives

Section 5121(a). Technical Centers and Technical Assistance

Present law

No provision.

House bill

No provision.

Senate amendment

Provides for establishing Regional Centers for the Transfer of Manufacturing Technology (Regional Centers) beginning with four centers in 1988, four in 1989, and four in 1990. The Commerce Department would provide up to 50 percent of total costs, with all federal contributions ended after six years.

Conference agreement

The Conferees agreed to a modified version of the Senate provision establishing the Regional Centers set forth in a new Section 25. The Senate proposal would have established Regional Centers in each of the fiscal years 1988 through 1990. Regional Centers are to provide outlets for the demonstration of technology developed by NIST to small- and medium-sized firms, beginning with the technology developed at the Automated Manufacturing Research Facility of NIST. By using the term "regional", the Conferees do not mean to preclude larger states, such as Texas or Alaska, from applying as a region coterminous with their state boundaries or to preclude parts of states from being included in more than one Regional Center. Under the Senate proposal the Secretary of Commerce would contribute up to 50 percent of the costs of each Regional center for up to six years. The Conferees agreed to a more

modest start for the program, an authorization of $5.0 million which should permit the start of two to three Regional Centers during fiscal year 1988. The authorizations which the Senate recommended for fiscal years 1989 and 1990 of $32 million and $40 million, respectively, are reduced to $40 million total and lumped together in one total since the conferees could not predict how fast the program would expand. Planning grants are not required, but may be awarded on a competitive basis from funds available for the Regional Center program if such grants are needed to guarantee high quality applicants from each of the various regions of the United States.

The Conferees also require the Secretary of Commerce to publish for comment, in the Federal Register, in advance of the establishment of any Regional Centers under this section, a detailed description of plans for administering the Regional Center program. The description is to include criteria and procedures for selecting Regional Center applicants, the role these Regional Centers are to play in promoting the use of improved manufacturing techniques by American small- and medium-sized businesses, projected schedules for reduction of direct financial support of the Regional Centers by the NIST, and preliminary criteria for evaluation of the effectiveness of Regional Centers. Initial publication is to be followed by a 30-day comment period, which recognizes the pressing need for such Regional Centers to be established and functioning in the near future. The Conferees also have limited potential grantees under this section to U.S. based, non-profit institutions, and the companies they assist, and to U.S. based, small- and medium-sized manufactuers who intend to apply the technology at facilities in the United States. Such organizations, including universities, which are already active in the enhancement of manufacturing capabilities of American businesses or which engage in related activities, are encouraged to apply. The Conferees kept the Senate requirement of merit review of applications by qualified individuals outside the Department of Commerce as part of the process in the belief that such review will increase the quality of fairness of the program. The Regional Center program is a new program within the Department of Commerce, which is not designed in any way to limit previously established programs, such as the Engineering Research Centers, of the National Science Foundation (NSF), which have a different purpose, or programs authorized or established by the Stevenson-Wydler Act as amended. Regional Centers may accept gifts and loans of equipment from vendors and others for these purposes. Individual pieces of equipment may be loaned to small firms for up to six months, but equipment essential to the operation of the Regional Centers shall not be loaned. The Conferees feel that a loan program may be the most effective means of technology transfer to small manufacturers who are not close enough geographically to a Regional Center to spend time experimenting with the equipment on exhibit.

Section 5121(b). Technology Extension Services

Present law

No provision.

House bill

No provision in H.R. 3. (H.R. 2916 requires the Secretary of Commerce to review current state industrial extension programs and determine an appropriate federal role in encouraging such programs.)

Senate amendment

Establishes an Office of Extension Services within the Institute to serve as a point of contact for state and local governments and to administer the Regional Centers.

Conference agreement

The Conferees accepted a compromise version for establishing a technology extension program. The Conferees retained the House provision requiring the Secretary of Commerce to conduct a nationwide study of existing state technology extension services and their relation to the Federal Government. The Secretary of Commerce must submit the results of this study to the Committee on Commerce, Science, and Transportation of the Senate and the Committee of Science, Space, and Technology of the House or Representatives with the NIST organization plan. The Conferees intend that funding for this study come from the Commerce Secretary's budget. The study can be conducted in-house or can be contracted out and should be coordinated with the Clearinghouse established in Section 5122(a). The NIST Director and the Secretary of Commerce should use the study to help develop the implementation plan also required by this section. The implementation plan should describe how NIST will provide assistance to state technology programs. Such assistance may include, but is not limited to technical information and advice from NIST, workshops and seminars consistent with the intent and authorities provided to NIST under the Federal Technology Transfer Act of 1986. The implementation plan also should include details for the three-year program for cooperative agreements between NIST and state technology extension services. The program is authorized for $2 million in each of fiscal years 1989, 1990 and 1991, as in the Senate bill, with an explicit sunset provision which is effective on September 30, 1991. The cooperative agreements may be for one, two or three years, as NIST deems appropriate, and will be awarded on a competitive basis. States must match the federal contribution with at least an equal increase in their own spending on extension. These agreements may be used to expand the reach of the Regional Centers established under Section 5121(a) to other states.

While the Office of Extension Services was eliminated, the functions of this office are retained as amendments to the NBS Act. This was done to give NIST more discretion in deciding how to organize these functions. The primary function is the provision of technical information and advice to state technology extension services by NIST personnel. The functions or cooperative agreements are to complement and not to limit the authorities provided to federal agencies under the Federal Technology Transfer Act of 1986, which gives technology transfer responsibilites to the federal laboratories, the Federal Laboratory Consortium for Technology

Transfer (FLC) and the National Technical Information Service (NTIS). Furthermore, the conferees note that cooperative agreements established under this section are distinct from "cooperative research and development agreements" under the Federal Technology Transfer Act of 1986. The Conferees reiterate that technology transfer and the management and development of ideas Typically are carried out on a person-to-person basis at the originating laboratory. As appropriate, NIST may coordinate the activities with these organizations.

The technical assistance NIST provides to state extension services should remain consistent with NIST's program strengths. NIST should coordinate its extension programs with the FLC and other federal agencies and/or labs to avoid duplication and to provide as much information as possible.

Section 5121(c). Federal Technology Transfer Act of 1986

Present law

Federal Technology Transfer Act of 1986.

House bill

No provision.

Senate amendment

No Provision.

Conference agreement

This section mandates that nothing in the provisions establishing the Regional Centers or giving NIST authority to assist state technology program shall be construed as superseding the provisions of the Federal Technology Transfer Act of 1986.

Section 5121(d). Non-Energy Inventions Program

Present law

The Federal Non-Nuclear Energy Research and Development Act of 1974 created an Energy-Related Inventions Program within NBS which has been highly successful in evaluating inventions and enabling those which show merit to obtain financing more readily.

House bill

No provision in H.R. 3. (H.R. 2916 requires the Secretary of Commerce to submit a plan to supplement the existing Energy-Related Inventions Program with the capability to evaluate inventions which are not energy related.)

Senate amendment

No provision.

Conference agreement

The Conferees agreed to a modified version of the House provision establishing within the Institute a Non-Energy Inventions Program to complement but not replace the existing Energy-Related Inventions Program. The original House version required a study

of the expansion of this program. Under the conference version, the NIST Director is required to submit, along with the initial organization plan for the Institute, an initial implementation plan including specific cost estimates, implementation schedules, and proposed mechanisms to help finance the development of technologies deemed to have potential. The NIST Director is required to consult with appropriate federal agencies including the Small Business Administration and the Department of Energy, State and local governments, universities, and private sector organizations and to set up cooperative arrangements, as appropriate, for various phases of the Inventions Program including both the referral of inventors to the program and aid to those inventors deemed to have concepts with commercial potential. While authorization of appropriations is not increased for fiscal year 1988, the conferees expect NIST and other organizations' shares in the cost of the program, including financial assistance to inventors, to be described in the program plan required by this Act.

Section 5122. Clearinghouse for State and Local Initiatives

Present law

No provision.

House bill

No provision in H.R. 3. (H.R. 2916 provides for a clearinghouse within the Office of Productivity, Technology, and Innovation (OPTI) that serves as a central repository of competitiveness initiatives by state and local governments.)

Senate amendment

Provides for a Clearinghouse for State and Local Initiatives on Productivity, Technology, and Innovation (Clearinghouse) within the Office of the Secretary of Commerce.

Conference agreement

The Conferees decided that the Clearinghouse should be limited in scope and concentrate on collection and dissemination of information on federal, state, and local initiatives related to promotion of technological innovation. The Conferees agreed to use the Senate format but to establish the Clearinghouse in the OPTI, as in the House bill. The responsibilities section is discretionary, as in the House bill. The Clearinghouse may collect and disseminate information on state and local initiatives, and is authorized to develop methodologies which state and local governments can use to evaluate their own programs. The Clearinghouse may provide technical assistance and advice to such governments with respect to such initiatives. The contracts section of the Senate version is modified to delete reference to evaluations of state programs. The Conferees modified the House version of the reporting requirement by requiring triennial reports, beginning by January 1, 1989, and including recommendations to the President, the Congress, and to federal agencies on the appropriate federal role in stimulating state and local efforts in this area. Also, the definition of "Clearinghouse" provided in the House version was included.

The Conferees are mindful that certain private sector companies have done extensive work on gathering, analyzing and disseminating information regarding federal, state, and local programs that provide technical assistance to industry. The Clearinghouse, given its limited resources, is not intended to duplicate these efforts or to compete with these companies. The Clearinghouse is encouraged whenever possible to take advantage of the work and capabilities already established in the private sector and to accomplish its mission through contract whenever this is possible and appropriate. The establishment of the Clearinghouse also is not intended to limit the efforts of NIST, NTIS, or other parts of the Department of Commerce. It shall remain the responsibility of the Secretary of Commerce to make sure that the programs of the Clearinghouse are not duplicative of the efforts of other Departmental components and that proper coordination and cooperation takes place among the various Departmental components which are working to enhance United States industrial competitiveness. The federal laboratories referred to in this and other sections of the bill include both government-operated and contractor-operated laboratories as defined in the Federal Technology Transfer Act of 1986.

Subpart C—Advanced Technology Program

Section 5131(a). Advanced Technology Program

Present law

No provision.

House bill

No provision in H.R. 3. (H.R. 2916 establishes an Advanced Technology Foundation (ATF), under the NIST Director, to promote development of advanced and innovative manufacturing technologies and to provide assistance aimed at solving generic research problems. It specifies responsibilities of the ATF Director and requires Congressional reporting.)

Senate amendment

Establishes an Advanced Technology Program (ATP) under the Institute Director which shall assist United States industry to create generic technology for commercialization and manufacturing. Provisions of the ATP are explained, along with the policy regarding funding and accounting.

Conference agreement

The Conferees agreed to amend the NBS Act to add a new Section 28 establishing an ATP to serve as a focal point for cooperation between the public and private sectors in the development of industrial technology and to encourage business to use the research, research techniques and know-how developed in the program of NIST. This section was rewritten to include the substance of both the House and Senate provisions setting forth the activities authorized under the ATP. Its main purpose is to aid in solving generic problems of concern to large segments of an industry rather than to promote individual companies. A primary activity of the

ATP is to encourage American companies to form joint research and development ventures as defined by the National Cooperative Research Act of 1984, provided that such joint ventures are not under the effective control of a single company. The ATP can help these ventures to form by providing organizational and technical advice; by sponsoring workshops, seminars, and conferences; and by using other means of providing information to businesses interested in forming or joining joint research and development ventures. The ATP is also permitted to contribute limited start-up funding, if appropriate, and a minority share of the ongoing costs of projects of these consortia for a period of up to five years when it is in the national interest to do so and when an appropriate cost-sharing agreement setting forth the rights and responsibilities of all parties including NIST has been developed. The Secretary of Commerce also may delegate to the program any additional responsibilities he has regarding consortia whether he has these responsibilities in his capacity as Secretary or a member of an interagency group. The ATP is to look for ways to tap the enormous talents of the National Laboratories for these purposes.

The Conferees expect the ATP to implement procedures to make sure that its programs are geared to solving problems of significance to the private sector. The Department of Commerce is authorized to take all actions necessary and appropriate to establish and operate the ATP. These include: supervising the programs, revising the program through the annual budget process and making revisions to the NIST Organization Plan, monitoring program results, giving due consideration to the advice of the Visiting Committee on Advanced Technology, assuring the undue advantage is not given to specific companies, and providing for dissemination of the ATP's research results. The Conferees accepted the "Limitations" section of the Senate bill with only minor modifications which, among other things, provides that if an awardee fails, the unspent balance of the federal funds shall be returned to the ATP. Principles and conditions governing the awarding of financial assistance by the ATP shall be set out in the Federal Register, and applications for assistance shall be accepted only after publication of the final Federal Register notice. Awards shall be made only after completion of a merit review of the quality of the successful proposals. Examples of factors to be considered in such reviews are willingness to commit quality personnel and other resources, the reasonableness of cost estimates and project schedules, the prior experience of NIST with the applicant, the extent of small business participation, potential benefits to the company and to the economy, and the likelihood of the applicant aggressively pursuing those benefits.

Section 5131(b). Visiting Committee on Advanced Technology

Present law

Section 10 of the NBS Act authorizes a Visiting Committee of five members and provides a description of the Committee's responsibilities and jurisdiction.

House bill

No provision in H.R. 3. (H.R. 2916 amends section 10 of the NBS Act to create an Advanced Technology Board consisting of nine members, with at least five from United States industry. This provision describes the appointment process of the board, its responsibilities, and its jurisdiction.)

Senate amendment

No provision.

Conference agreement

The Conferees agreed to amend the NBS Act to replace the present NBS Visiting Committee with a Visiting Committee on Advanced Technology (VCAT), with majority representation from U.S. industry, as the statutory advisory committee for NIST. VCAT will consist of nine members appointed by the NIST Director, five of whom shall be from United States industry. Original VCAT members will be divided into three classes serving from one, two or three years. Successor members will serve for terms of three years. The Conferees agreed that the final members of the NBS Visiting Committee shall be among the initial members of VCAT, to the extent they wish to serve. The VCAT is larger than the Visiting Committee in order to widen the breadth of expertise and advice available to NIST. VCAT is not intended to be a policy board which orders the NIST Director to adopt specific policies; rather it is expected to provide the best available advice for the NIST Director to use in making his own decisions. To emphasis this, the Conferees altered the House bill to change the name of this organization from Advanced Technology Board to VCAT and to make its members appointees of the NIST Director rather than the President. The Conferees agreed that majority representation from U.S. industry is important to ensure that the policies of VCAT reflect the best thinking and market sense of the industries that will utilize the technologies and processes that will be made available through the ATP. Even though the VCAT is purely advisory in nature, the Conferees have included a conflict of interest provision because of the financial impacts NIST's decisions can have on an individual's or a company's financial interests. VCAT is directed to submit an annual report to the Secretary of Commerce for submission to the Congress on or before January 31 in each year to cover those matters which affect NIST, including the ATP, and such additional reports on specific policy matters it deems appropriate.

Section 5131(c). National Academies of Sciences and Engineering Study of Government-Industry Cooperation in Civilian Technology

Present law

No provision.

House bill

No provision.

Senate amendment

Specifies that the Director may contract periodically with the Academies to receive advice and studies on the nation's significant national needs and opportunities in manufacturing and emerging technologies. The bill specifies the responsibilities of the review panel of the Academies.

Conference agreement

The Conferees agreed to accept the Senate proposal authorizing the Secretary of Commerce to contract with the Academies, including the Institute of Medicine, for a review of the various types of arrangements under which the private sector in the United States and the Federal Government cooperate in civilian research and technology and technology transfer. Panelists are to be drawn from a broad spectrum of backgrounds and the Academies should also draw on the expertise of its Board of Assessments for NIST. The purpose of the review is to provide the Secretary of Commerce and the Congress with objective information regarding the uses of the various types of cooperative technology arrangements currently being applied in the United States, as well as a candid assessment of which of these arrangements work well and what conditions are necessary for them to work. The Conferees note that there have been a sizeable number of programs set up legislatively and administratively over the past decade and feel that there should be enough experience from the initial experiments under these programs for the Academies to reach some conclusions regarding effectiveness and to make recommendations for improvement. The Conferees feel that this study will help guide the government properly to invest in the most promising of these alternatives. The proposal supersedes studies by the Academies under the Semiconductor and Superconductor Research section of the Technology Reviews in Title XLIII of the Senate bill. The Secretary of Commerce is to seek funding for this review from other federal agencies and private industry. A report is to be submitted to the Secretary of Commerce, the President, and the Congress within eighteen months after the contracts are signed with the Academies.

Subpart D—Technology Reviews

Section 5141. Report of President

Present law

No provision.

House bill

No provision.

Senate amendment

Requires the President, when submitting his fiscal year 1990 budget to Congress to also submit a report on administration policy and proposals in semiconductors, semiconductor manufacturing, fiber optics and superconductors.

Conference agreement

The Conferees agreed to accept the Senate language requiring the President to submit a report on policies and budget proposals regarding federal research in semiconductors, superconductors, fiber optics and optical-electronic technologies, and advanced manufacturing technologies at the time of submission of the budget request for fiscal year 1990 to Congress. The Conferees agreed that, since federal research efforts are generally dispersed throughout a wide range of agencies, and budget information is often difficult to obtain, a report accompanying the fiscal year 1990 budget request would be particularly timely.

Section 5142. Semiconductor Research and Development

Present law

No provision.

House bill

No provision in H.R. 3. (H.R. 2916 creates the National Advisory Committee on Semiconductors (NACOS) with the responsibility for devising a national semiconductor strategy to assure continued U.S. leadership in semiconductor technology.)

Senate amendment

Directs the Secretary of Commerce to enter into an agreement with the National Academies of Science and Engineering to review all major policy issues regarding United States Semiconductor Technology.

Conference agreement

The Conferees agreed to accept the House language which established NACOS to monitor the semiconductor industry and recommend a national strategy to ensure U.S. competitiveness in the semiconductor industry. This section creates a thirteen-member independent advisory body in the Executive Branch consisting of the Secretary of Defense, the Secretary of Commerce, the Secretary of Energy, Director of the NSF, or their designees. The President, acting through the Director of the Office of Science and Technology Policy (OSTP), is to appoint four members from outside the Federal Government who are eminent in the semiconductor industry, and four members who are eminent in the fields of technology, defense, and economic development. OSTP is authorized to seek administrative support and funding for NACOS from an appropriate agency or agencies. Accepting funds for this purpose from private sector companies or organizations is also permissible. Annual reports are required to be submitted to the President and the Congress on the NACOS's activities. NACOS shall cooperate with any other committee or commission established by law which has overlapping responsibilities.

Section 5143. Review of Research and Development Priorities in Superconductors

Present law

No provision.

House bill

No provision in H.R. 3. (H.R. 2916 requires the President to appoint a National Commission on Superconductivity (National Commission) to review major policy issues regarding U.S. applications of recent research advances in superconductors to assist Congress in devising a national strategy in superconductivity technologies. Bill specifies the make-up and responsibilities of National Commission Members.)

Senate amendment

Directs the Secretary of Commerce to enter into an agreement with the Academies to review all major policy issues regarding superconductivity technology.

Conference agreement

The Conferees agreed to accept the House language which requires the President to appoint a National Commission to review major policy issues related to superconductor research. The National Commission is to include representatives from various agencies of the Federal Government, industries, universities, national laboratories, and professional societies. The National Critical Materials Council is to be the coordinating body and provide staff support for the National Commission. A representative of the private sector is to be designated Chairman of the national Commission. A report, including recommendations, is required to be submitted to the President and the Congress within six months after enactment of the bill, regarding methods of enhancing the research, development, and implementation of improved superconductor technologies in all major applications. The National Commission is to terminate one year after establishment with all residual functions vesting in the National Critical Materials Council.

Subpart E—Authorization of Appropriations

Section 5151. Authorization of Appropriations for Technological Activities

Present law

No provision.

House bill

No provision in H.R. 3. (H.R. 2160 authorizes appropriations for fiscal year 1988 of $142,977,000 for NBS. H.R. 2916 authorizes $5 million for the ATF.)

Senate amendment

Authorizes total appropriations of $206.9 million for fiscal year 1988 including $166,000,000 for the Institute's ongoing programs and $15,000,000 for ATP.

Conference agreement

The Conferees established $144,783,000 for fiscal year 1988 as the base authorization level for the traditional activities to be carried out by NIST. These are: Measurement Research and Technology, $41,939,000; Engineering Measurements and Manufacturing, $40,287,000; Materials Science and Engineering, $23,521,000; Computer Science and Technology, $7,941,000; Research Support Activities, $19,595,000; Cold Neutron Source Facility, $6,500,000 (for a total authorization of $13,000,000), and $5,000,000 was authorized for the new programs of the National Institutes. Of these totals $2,000,000 would be only for steel technology; $3,550,000 for process and quality control research; $3,710,000 for the Center for Building Technology; $5,662,000 for the Center for Fire Research (with the stipulation that the two Centers shall not be merged); $1,500,000 for high performance composites research; $7,371,000 for technical competence fund projects; and $1,091,000 for Postdoctoral Research Associates. The authorization levels also assume full funding of the $4 million initiative for characterization and processing of high temperature superconducting materials and $5.0 million for sections 25, 26, and 27 of the NBS Act. The Conferees did not attempt to set authorization levels related to the Computer Security Act or other matters which may be included in supplemental appropriations acts for 1988.

Section 5152. Stevenson-Wydler Act Authorizations

Present law

No provision.

House bill

No provision in H.R. 3. (H.R. 2160 authorizes $2,400,000 for OPTI, $1,000,000 for Japanese Technical Literature Program, and $500,000 for NTIS patent licensing activities. H.R. 2916 authorizes appropriations of $500,000 for fiscal year 1988, $1,000,000 for fiscal year 1989, and $1,500,000 for fiscal year 1990 for the Clearinghouse.)

Senate amendment

Authorizes appropriations of $2,400,000 for OPTI, $2,000,000 for the Japanese Technical Literature Program, and $500,000 for NTIS patent licensing activities. Clearinghouse authorization levels are $1,000,000 for fiscal year 1988, $1,500,000 for fiscal year 1989, and $2,000,000 for fiscal year 1990.

Conference agreement

The Conferees agreed to amend the Stevenson-Wydler Technology Act of 1980 to authorize $2,400,000 for OPTI, and $500,000 for the patent licensing activities of NTIS, and $500,000 for the Japa-

nese Technical Literature Program. They agreed to accept the proposed House figures for the Clearinghouse of $500,000 for fiscal year 1988, $1,000,000 for fiscal year 1989, and $1,500,000 for fiscal year 1990.

Subpart F. Miscellaneous Technology and Commerce Provisions

Section 5161. Savings Provision

Present law

No provision.

House bill

No provision.

Senate amendment

Amends the NBS Act to continue existing NBS rules and regulations following enactment of this bill.

Conference agreement

The Conferees agreed to accept the Senate provision amending the NBS Act to include a new section which continues existing NBS rules and regulations, determinations, standards, contracts, certifications, authorizations, delegations, and other actions not suspended by the Secretary of Commerce or others.

Section 5162. Miscellaneous Amendments to the Stevenson-Wydler Act

Present law

Section 13(a)(4) of the Stevenson-Wydler Act permits the NTIS to continue its program of licensing the inventions of interested agencies. Section 10(e)(7)(A) of the Stevenson-Wydler Act provides stable funding for the Federal Laboratory Consortium by setting aside for it .005 percent of the research budget of each federal agency with a significant research budget.

House bill

No provision in H.R. 3. (H.R. 2916 modifies Section 13(a)(4) of the Stevenson-Wydler Act to make clear that royalties acquired from one invention can be applied against other inventions of the same agency. H.R. 2916 also raises the FLC set-aside to provide it a budget of approximately $1,000,000 in 1989, the dollar amount the provision's sponsors originally intended to be available to the FLC.)

Senate amendment

No provision.

Conference agreement

The Conferees accepted two of the House miscellaneous and conforming provisions in Title VII of H.R. 2916. Section 5162(a) rewords Section 14(a)(4) of the Stevenson-Wydler Technology Innovation Act of 1980, dealing with the licensing of inventions, to enable the patent licensing program of the National Technical Information Service to receive promptly, from the agencies contracting with it, the revenues it needs to continue its traditional program of providing worldwide patent licensing services to other government agencies. Section 5162(b) redrafts Section 11(e)(7)(A) of the 1980 Act concerning the FLC to restate that organization's funding formula to ensure that the $900,000 to $1,000,000 per year the Congress originally intended for the FLC's responsibilities under the 1986 Act is available. The portion of an agency's R&D budget that must go to the FLC is increased from .005 percent to .008 percent. NIST is expected to continue the current practice of estimating each contributing agency's share of FLC funding and the Conferees hope agreement between NIST and the agencies can be reached promptly during the first quarter of the fiscal year. When this does not occur, NIST should bill an agency based on that agency's intramural research and development obligation/total from the most recent edition of the National Science Foundation Publication, *Federal Funds for Research and Development* to the extent this figure accurately reflects the obligation. The Committee notes that NSF totals are incomplete for certain agencies such as the Department of Energy because of that agency's use of government-owned contractor-operated facilities for the bulk of that agency's intramural research program. It is expected that FLC's funding will be received by the end of the first quarter of each fiscal year.

Section 5163. Fee Policy

Present law

No statutory provision forbidding NIST from charging fees of research associates; no requirement for the Board of Assessment at NIST to review emerging technologies.

Provisions in the organic charter of the Department of Commerce authorize the NTIS and require its clearinghouse functions to be maintained by the Department of Commerce.

House bill

No provision in H.R. 3. (H.R. 2160 forbids NIST from charging fees from research associates, requires NIST to prepare a plan describing how the Institute will make small businesses aware of its activities and research, and forbids contracting out the activities of NTIS.)

Senate amendment

Almost identical language to the House bill.

Conference agreement

The Conferees accepted the Senate format and language of Section 4505(b) (c) (d) and (e), (sections 13, 14, 15, and 16 of H.R. 2160, the NBS fiscal year 1988 Authorization Bill as passed by the House on June 4, 1987.) The language is almost identical in both the House and Senate versions. As agreed to by the Conferees, the sections include the following. NIST is not to charge fees to research associates in the absence of express statutory authority to do so. NIST's Board of Assessment must include as part of its annual review, an assessment of emerging technologies which are expected

to require research in metrology. The Institute must submit a plan to the authorizing Committees in the House and Senate detailing how the Institute will make small businesses more aware of NIST activities in order to increase their participation in NIST research; this plan is not meant to be an administrative burden and may be submitted in conjunction with the NIST Organization Plan required by this Act.

The Stevenson-Wydler Act is amended to forbid contracting out of activities or functions of the National Technical Information Service, not performed by contractors on September 30, 1987, without specific statutory authority. The only exception permits NTIS to let small contracts of limited duration not in excess of $250,000 per year to supplement the activities of the NTIS government employees. NTIS is required to maintain a permanent archival repository and clearinghouse for the collection and dissemination of nonclassified scientific, technical, and engineering information since NTIS is often the easiest place to find older federal scientific documents; this requirement merely codifies current NTIS practice and is not to affect NTIS responsibilities, vis-a-vis the National Archives, under 44 U.S.C. 2107.

A Commerce, Science, and Technology Fellowship Program by which Department employees have an opportunity to spend a one-year fellowship working in Congressional offices is reestablished. Although the program traditionally was administered by the NBS, this provision requires the Secretary of Commerce to formally establish a program and to report to the Congress within six months after the enactment date of this Act. One final House provision, which would have required OPTI to analyze the concept of competitiveness impact reviews was omitted because the concept is being incorporated elsewhere in this Act.

Section 5164. Metric Usage

Present law

The Metric Conversion Act of 1975 establishes the U.S. Metric Board and requires it to coordinate the voluntary conversion of the U.S. to the metric system.

House bill

No provision in H.R. 3. (H.R. 2916 amends Section 3 of the Metric Conversion Act of 1975 to require each federal agency to use the metric system in procurements, grants, and other business-related activities by the end of fiscal year 1992 to the maximum extent feasible.)

Senate amendment

Requires the Federal Government to reaffirm the national policy set forth in the Metric Conversion Act of 1975 and to initiate specific programs to speed conversion to metric.

Conference agreement

The Conferees accepted the House version of the amendments to the Metric Conversion Act of 1975. While both the House and Senate provisions endorsed the initiation of specific programs to increase U.S. conversion to the metric system, the conferees chose to accept the greater specificity of the House provision. The International System of Units (SI) version of metric, as established by the General Conference on Weights and Measures in 1960 and as interpreted or modified by the Secretary of Commerce, is designated as the preferred system of weights and measures for United States trade and commerce, and its use by each federal agency is required in procurements, grants, and other business-related activities. Each agency is expected to establish guidelines similar to Department of Defense (DOD) Directive Number 4120.18, dated September 16, 1987 as soon as possible following the date of enactment. This directive states that it is DOD policy to use metric system in all its activities consistent with security, operational, economical, technical, logistical, and safety requirements. It then more specifically spells out when metric is to be used; who is to establish procedures for preparation, coordination and approval of new metric specifications and standards; and the DOD officials who must approve exceptions to use of metric. DOD representatives, furthermore, are directed by the DOD Directive to participate actively in the development of U.S. and international standards using the metric system and in the Federal Interagency Committee on Metric Policy which will have major responsibilities in ensuring the successful implementation of this section. The Conferees expect each of these issues to be addressed in the guidelines to be promulgated by each agency and the Interagency Committee is to be used to achieve as much consistency as possible in the guidelines of the various agencies.

Under the provision adopted by the Conferees, conversion to metric is not required when its use is impractical or is likely to cause significant inefficiencies or loss of markets to United States firms. Such exceptions will be more likely to occur in the early years of this program. For instance, the DOD directive states that existing designs dimensioned in inch-pound units need not be converted unless it is necessary or advantageous to do so, that the measurement units in which a system is originally designed are to be retained for the life of the system, and that during the transition, use of hybrid metric and inch-pound designs may be necessary. Also, certain aerospace systems generally use the English system of measurements worldwide. It is not the intent of this legislation to force the U.S. aerospace industry, to its financial detriment, to take the lead in metric conversion for these systems. However, new DOD shop, laboratory, and general purpose laboratory equipment under the DOD directive must be able to operate in metric units; bulk purchases usually are to be made in metric; and components, subassemblies, and semifabricated materials are to be specified in metric units when economically available and technically adequate. Furthermore, the Conferees expect agencies to assist domestic federal contractors and subcontractors, including small business, in developing the capability to compete in metric units so that increased use of metric by federal agencies does not become a windfall for companies from foreign countries which have already converted. The ability of federal contractors and suppliers to do business in metric should increase U.S. access to foreign markets and decrease our trade deficit since metric literacy is a prerequisite to competing in most overseas markets.

PART II. SYMMETRICAL ACCESS TO TECHNOLOGICAL RESEARCH

(No provision in House bill; Sections 411, 412 and 3871 of the Senate Amendment)

Present law

Title V of P.L. 95-426 (The Foreign Relations Authorization Act, Fiscal Year 1979) sets forth the goals of United States international science and technology policy, requires the President to issue an annual report on the conduct of such policy, and establishes the Secretary of State's responsibility for coordinating and overseeing all major international science and technology agreements.

House bill

No provision.

Senate amendment

Sections 411 and 412 of the Senate Amendment set up a system of continuous monitoring technology transfer between the United States and foreign countries and call for an annual report by the U.S. Trade Representative to be prepared in conjunction with the National Science Foundation.

Section 3871 of the Senate Amendment creates an Interagency Committee on Symmetrical Access to Technological Research, chaired by the Secretary of Commerce, to assess the availability of equally valued technological knowledge across countries and to make such availability a goal in U.S. trade negotiations. The Committee is charged with studying the general concept of symmetrical access and producing annual reports to Congress and setting negotiating objectives for the United States Trade Representative insofar as his negotiations involve international science and technology issues, including recommending administrative and legislative changes in United States policy to improve symmetrical access to technological research.

Conference agreement

United States science and technology policy has traditionally encouraged international access to this nation's public research and development activities and opportunities. The Conference Agreement is an attempt to encourage other countries to follow the United States example.

Current law (the Stevenson-Wydler Technology Innovation Act of 1980) and Executive Order (number 12591, issued in April 1987) set the precedent for this section of the Conference Agreement. Both direct federal laboratories and agencies, in international science and technology negotiations, to consider whether the home countries of foreigners who apply for access to U.S. research and development facilities, offer comparable terms to U.S. nationals.

The Conference Agreement makes several amemdments to Title V of P.L. 95-426 (22 U.S.C. 2656) to ensure that science and technology agreement involving the United States open up foreign research and development activities and opportunities for Americans. The amendments build on existing goals of U.S. international science and technology policy, provide for more information on the

United States' access to foreign research and development activities and opportunities, and establish a process to review proposed U.S. international science and technology agreements.

Section 5171(a) of the Conference Agreement adds to the declaration of policy in Title V. It states that U.S. federally supported international science and technology agreements should be negotiated to assure proper protection of intellectual property rights to the maximum extent possible and reciprocal and equitable access to foreign scientific and technological opportunities, facilities, and information. The conferees recognize that strict reciprocity may not be a proper measure for ensuring the optimal amount of access inasmuch as the structure and organization of the U.S. scientific and technological enterprise may not mirror that of other nations. For this reason, the conferees encourage policy makers to evaluate the equity and reciprocity of the overall science and technology relationship when measuring and ensuring such access.

Sections 5171 (b) and (c) direct the President to include information in the annual report mandated by Title V on American access to public and publicly supported private international research and development activities and opportunities. These sections of the annual report are to be transmitted to the Speaker of the House of Representatives and the Senate Committees on Foreign Relations and Government Affairs.

The conferees expect the report to be as complete as possible. The President should utilize all available federal sources of information in compiling this report. For example, the Department of Commerce collects information for the United States Trade Representative to identify case in which the researchers of American companies have been denied access to foreign government supported research and development facilities. This information could prove valuable to the report and could be supplemented with pertinent information derived from other federal sources on the access of U.S. federally-supported researchers.

The additional federal sources of information could include responses to Federal Register notices, findings contained in the Foreign Trade Barriers Report (section 303 of the Trade and Tariff Act of 1984), and reports from the National Science Foundation, the Commercial Services Officers of the Department of Commerce, and the Science Attaches of the State Department.

In directing that information on such access be included in the Title V annual report, the conferees intend that such information be readily available to federal agencies and the Congress for use in the implementation and oversight of relevant laws and executive orders governing U.S. access to foreign science and technology facilities and activities.

Section 5171(d) provides criteria for the Secretary of State to consider in negotiating U.S. international science and technology agreements. In addition, it emphasizes the importance of review by affected agencies of proposed international science and technology agreements and requires the Secretary of State to make sure such consultation takes place.

Specifically, the Conference Agreement requires the Secretary of State to provide all interested federal agencies with an opportunity to review proposed U.S. international scientific and technological

agreements. These agencies are to include those responsible for (i) federal technology management policies; (ii) national security policies; (iii) United States trade policies; and (iv) relevant executive orders. Examples of agencies with responsibility for such policy areas are the Department of Commerce, the Department of Defense, and the United States Trade Representative.

While the Secretary of State is assigned primary responsibility for coordination and oversight of U.S. international science and technology agreements, he shall ensure that all affected agencies are aware of international science and technology negotiatons which are in their area of policy responsibility but carried out by other agencies. The Secretary of State shall consult with these affected agencies and provide them with an opportunity to use their expertise to ensure that final effective agreements are crafted.

PART III. NATIONAL CRITICAL MATERIALS COUNCIL

Sec. 5181. The National Federal Program Plan for Advanced Materials Research and Development

Present law

Title II of P.L. 98-373 establishes the National Critical Materials Council and, among other mandates, calls for the establishment by the Council of a National Federal program plan for advanced materials research and development.

House bill

No provision.

Senate amendment

The Council is required to submit such plan to Congress not later than 180 days after enactment of this law.

Conference agreement

The conferees agree to accept section 3881 of H.R. 3 as an amendment to the National Critical Materials Act, providing the Senate amendment is modified to designate the appropriate Committees of Congress, which are to receive the required plan.

Sec. 5182. Personnel Matters

Present law

Section 208 of P.L. 98-373 provided for the selection of an Executive Director, who is authorized "to employ such personnel as may be necessary for the Council to carry out its duties and functions under this title, but not to exceed twelve compensated employees."

House bill

No provision.

Senate amendment

Requires the Executive Director to increase the number of current employees by five full-time employees, of which at least four

shall be permanent, professional employees with expertise relevant to the responsibilities of the Council.

Conference agreement

Since the enactment of the Act in 1984, the Council has only hired an Executive Director, one technical consultant, and a secretary. However, the established deadlines and other provisions requiring "coordinating federal materials-related policies", "reviewing and appraising the various programming and activities of the Federal Government", "to prepare a report providing a domestic inventory of critical materials . . . by April 1, 1985", and "to establish a national Federal program plan for advanced materials research and development" have not been met.

To insure that the provisions of P.L. 98-373 are complied with, the conferees agree to accept Section 3882 of H.R. 3 as an amendment to the National Critical Materials Act. This provision calls for employment of five full-time employees, of which four shall be permanent, professional employees. To insure that the professional employees will have the technical and scientific background necessary to conduct the inventories, analyze budgets and assess the programs, the managers agree that the employees shall qualify for a GS rating of 13 or higher. In specific areas and for certain activities, it may be appropriate to employ scientists with expertise at the GS-9 through -13 level. Nevertheless, the conferees believe that the Council must be staffed with personnel having analytic, technical and/or scientific experience and advanced degrees.

Sec. 5183. Authority to Accept Services and Personnel from other Federal Agencies

Present law

Sec. 210 of P.L. 98-373 gives authority to the Council to use services or personnel of other Federal agencies on a reimbursable basis.

Senate amendment

The Council is authorized to use services or personnel of other Federal agencies on a non-reimbursable basis.

Conference agreement

The conferees agree to accept Section 3883 of H.R. 3 as an amendment to the National Critical Materials Act.

Sec. 5184. Authorization of Appropriations

Present law

Section 211 of P.L. 98-373 authorizes such sums as necessary until September 30, 1990.

House bill

No provision.

Senate amendment

Extends the authorization of appropriations to 1992.

Conference agreement

The conferees agree to accept Section 3884 of H.R. 3 as an amendment to the National Critical Materials Act.

SUBTITLE C—COMPETITIVENESS POLICY COUNCIL ACT

Section 5201—Short Title

Present law

No provision.

House bill

Cites the subtile as the "Council on Industrial Competitiveness Act".

Senate amendment

No provision.

Conference agreement

The conferees agree to cite the subtitle as the "Competitiveness Policy Council Act".

Section 5202—Findings and Purposes

Present law

No provision.

House bill

Contains general findings on America's economie competitiveness problems and on the purposes of the Council, which is to create an institutional forum where business, government, labor, academia and public interest groups can identify competitive problems, develop long-term strategies and create consensus in support of these strategies.

Senate amendment

No provision.

Conference agreement

The conferees agree to accept a modified version of the House provision setting out general findings on America's economic competitiveness problems and stating the purposes of the Council, which is to create an institutional forum where business, government, labor, academia and public interest groups can analyze information on the competiveness of the U.S., identify competitive problems, develop long-term strategies, make recommendations, and publish their analyses.

Section 5203—Council Established

Present law

No provision.

House bill

The Council on Industrial Competitiveness is established in the Executive Office of the President as an advisory council.

Senate amendment

President shall establish within 90 days of enactment the Council on Economic Competitiveness, an advisory council under the provisions of the Federal Advisory Committee Act, except the council sunsets after 4 years rather than the 2 years called for in the act.

Conference agreement

The conferees agree to establish the Competitiveness Policy Council (CPC) under the provisions of the Federal Advisory Committee Act (FACA).

Section 5204—Duties of the Council

Present law

No provision.

House bill

The duties of the Council are to a) develop policies to enhance international competitiveness and productivity; b) review requests for governmental assistance and recommend actions of the private sector to ensure future competitiveness as a condition of such assistance, but only on the request of the President; c) identify export opportunities and develop strategies for penetrating such markets; d) collect and analyze data on economic conditions and market trends; e) publish reports; f) create forums where leaders of business, government, labor, academia and public interest activities will identify economic problems, develop recommendations and create consensus; g) report to the President and Congress on the state of economy, the status of major sectors and the effects of existing government policies on agriculture, business and industry; h) provide policy recommendations regarding specific issues concerning agricultural, business and industrial strategies; and i) evaluate existing government policies.

Senate amendment

The duties of the Council are to a) collect, analyze and provide information on current and future economic competitiveness; b) monitor changes in research, science and technology and the changing nature of the U.S. economy to provide marketable, high-quality goods and to respond to international competition; c) create a forum where national leaders from business, government, labor, academia and public interest activities will identify economic problems, develop recommendations and create consensus; d) develop and promote a national vision and specific policies which enhance international competitiveness and productivity; e) serve as a clearinghouse on Federal and private sector resources devoted to increasing competitiveness and on State and local programs devised to enhance competitiveness; f) comment upon private sector requests for relief as to the likelihood that such relief will result in

enhanced competitiveness of the applicant; g) establish, when appropriate, subcouncils for specific sectors and economic issues; h) review and evaluate subcouncil recommendations; i) prepare reports on recommendations; j) submit an annual report to the President and the Congress on the ability of the U.S. to be internationally competitive, the status of major sectors, and the effects of existing policies; and k) evaluate and comment upon existing and future policies and regulations and the Federal budget with respect to their impact on competitiveness.

Conference agreement

The conferees agree to a modified provision concerning the duties of the Council which combines the House and Senate provisions. The Council is intended to be solely an advisory and review body. It is not intended to be a body for making Federal policy, nor does it have any operational function outside of the powers to review and comment.

In that regard, the duty of the Council to comment upon private sector requests for governmental assistance or relief is intended to be a advisory role only. The conferees do not intend that this function create any new administrative process concerning the granting of such assistance or relief. The Council should make its comments known through the normal public comment process where one exists. However, it is the conferees' belief that the purpose of governmental assistance or relief to firms in the private sector should be to facilitate adjustment and should be accompanied by a plan of action which will ensure that the applicant is likely to become internationally competitive in the future. It is the intent of the conferees that the Council will provide a forum where such plans of action can be discussed.

Section 5205—Membership

Present law

No provision.

House bill

The Council shall consist of 16 members appointed by the President after consideration of such recommendations from the Speaker of the House of Representatives and the Majority Leader of the Senate. Four members shall be appointed each from business, labor, academia or public interest activities, and Federal government and state and local governments.

Initial appointments shall be made within 60 days of enactment. Vacancies are to be filled in the same manner as original appointment, only for remainder of term or until successor has taken office. Members can be removed by the President only for malfeasance in office. Member's terms of office shall correspond to the President's term, however no member may serve more than two consecutive terms.

Non-governmental members shall be compensated at the daily rate of Executive Schedule Level II for each day engaged in duties of the Council and receive travel expenses and per diem. Federal, state and local government members shall serve without additional compensation but shall receive travel expenses and per diem.

Nine members shall constitute a quorum, except a lesser number may hold hearings with approval of two-thirds vote of entire Council. The Council shall not commence its duties until all members from business, labor, academia, and public interest activities have been appointed. The chair shall be elected from members from business, labor, academia, and public interest activities by two-thirds vote of entire Council. The Council shall meet at the call of the chair or majority of members. However the Council must meet at least 6 times a year. Policy actions of the Council, except for hearings and the calling meetings, requires a two-thirds of entire membership.

An individual is prohibited from being appointed a member of the Council if they had acted as a agent of a foreign government any time for a period one-year before appointment. Members are prohibited from acting as agents of a foreign government and members may not act as a agent of a foreign government for 1 year after the end of their service. The penalty for violation of this provision is a fine of not more than the greater of $250,000 or the amount in compensation received in the prohibited action.

Senate amendment

The Council shall consist of 9 members—3 appointed by the President, 3 by the Majority Leader and the Minority Leader of the Senate acting jointly, and 3 by the Speaker of the House. Members shall be appointed from business, labor, academia, public interest activities, and State and local governments. There are to be no members from the Federal government. No more than 5 members may be from any one political party.

Initial appointments are to be made within 90 days of enactment and vacancies are to be filled in the same manner as described in the House bill. Members may be removed only for malfeasance in office. Members are to be compensated in the same manner as described in the House bill.

Members may not serve as agents of a foreign power as defined in the Foreign Agents Registration Act.

Five members shall constitute a quorum, except that a lesser number may hold hearings on approval of majority of entire council. A chair shall be from the members by majority of entire membership and shall serve on a full time basis.

The Council shall meet at the call of the chair or a majority of the members. There is no required number of meetings. Members may designate an alternate for all purposes, including voting. Policy actions shall require majority vote of entire membership. However, if majority consensus can not be reached on a matter referred to the Council by the President or the Congress, the Council shall explain why a consensus could not be reached and include all relevant information and policy options.

Conference agreement

The Council shall consist of 12 members—4 appointed by the President, one each appointed from business, labor, public interest activities, and the Federal government; 4 by Majority Leader and

Minority Leader of the Senate, acting jointly, one each appointed from business, labor, academia, and State or local governments; and 4 by the Speaker of the House of Representatives and the Minority Leader, acting jointly, one each appointed from business, labor, academia, and State or local governments. It is the conferees' intent that the Council consist of one representative from State government and one from local government—the appointment of which is to be determined by Congressional leaders. Other Federal officials may participate on an ex-officio basis as requested by the Council. It is the intent of the conferees that the Council be bipartisan. No more than 6 members of the Council shall be from the same political party. It is also the intent of the conferees that the notion of "balance" in membership embodied in FACA be scrupulously adhered to in the appointment of the Council's members.

The members of the Council should be nationally recognized individuals with broad knowledge of the U.S. and world economies and the competitiveness problems and opportunities facing the United States.

Initial appointments to the Council shall be made within 30 days after January 21, 1989. The conferees intend that appointments be made by the new Administration and the new Congress. Vacancies are to be filled in the same manner as original appointment and only for the remainder of the term. Members may be removed only for malfeasance in office.

Since the Council is subject to the FACA two year sunset provision, member's terms will initially coincide with the life of the Council. However, it is the hope of the conferees that members will be re-appointed on a rolling basis if the Council is reauthorized.

Non-governmental members shall be compensated at the daily rate of GS–18 for each day engaged in duties of the Council and receive travel expenses and per diem. Federal, state and local government members shall serve without additional compensation but shall receive travel expenses and per diem.

Seven members shall constitute a quorum, except a lesser number may hold hearings with approval of two-thirds vote of the entire Council. The Council shall not commence duties until all non-governmental members have been appointed. The chair shall be elected from non-governmental members by two-thirds vote of entire Council. The Council shall meet at the call of the chair or majority of members. Policy actions of the Council, except for hearings and the calling of meetings, require a two-thirds vote of the entire membership. Members may designate one alternate to attend meetings, but the designated alternate may not vote.

Members may not serve as agents of a foreign principal and are required to file a financial disclosure report. However, the reports are to be held confidential and exempt from any law requiring their public disclosure. Members are considered special Government employees for purposes of the sections of the U.S. Code concerning bribery of public officials, graft, claims against the United States and acts affecting a personal financial interest. The conferees recognize that members of the Council are, in part, representatives of a particular interest and do not consider the advocacy of those interests a conflict of interest.

The Council may procure services of consultants and may request agencies to detail personnel to the Council on a reimbursable basis.

Section 5206—Executive Director and Staff

Present law

No provision.

House bill

Provides for a full time executive director as principal administrative officer, paid at ES Level V. The executive director may appoint staff within the limitations of the Council's appropriations in accordance with civil service laws. The Council may procure services of consultants and may request agencies to detail personnel to the Council on a reimbursable basis.

Senate amendment

Same as the House bill, except that the Council is required to consult with the President and Congress before appointing the executive director.

Conference agreement

The conferees agree to a modified version of the House provision providing that the executive director be paid at no higher than a GS–18 level. The executive director may appoint staff within limitations of Council's appropriations in accordance with civil service laws. The staff of the Council shall be considered special government employees for the purposes of the sections of the U.S. Code concerning bribery of public officials, graft, claims against the United States, and acts affecting a personal financial interest. The staff is also covered under 18 U.S.C. 207, barring employees from lobbying their former agency for one year after leaving government service.

Section 5207—Powers

Present law

No provision.

House bill

The Council may hold hearings, authorize agents, obtain information from Federal departments and agencies, use U.S. mails, and request administrative support from GSA on a reimbursable basis. No provision on consultation with the President and the Congress.

Senate amendment

Similar to the House bill, except Council may also administer oaths, may accepts gifts, and may not obtain classified information. The Council shall consult with the President or Congress at their request on competitiveness issues. The Council shall prepare a plan of work, including description of how Council will coordinate with existing advisory committees, for submission to the President and

Congress. The President may, within 30 days of receipt, make recommendations as to modifications. Council shall consider President's recommendations.

Conference agreement

The conferees agree to a modified version of the Senate provision. The Council may hold hearings, administer oaths, accept gifts, use U.S. mails, request administrative support from GSA on a reimbursable basis, and obtain information from Federal departments and agencies but may not obtain classified information. Within 60 days of the initial appointment of members, the Council must submit a report to the President and Congress outlining its plan of work, including the extent to which the Council will coordinate with other advisory committees.

Section 5207(h)—Subcouncils

Present law

No provision.

House bill

No provision.

Senate amendment

The Council may set up subcouncils for each sector identified in the annual report as of national significance because of employment, capital resources, impact on defense, or as supplier to or customer of other U.S. industries, and which would benefit from such a subcouncil. The Council may also set up subcouncils for any other purpose. The subcouncils shall include representatives from business, labor, government and any other persons the Council determines is appropriate. The subcouncils shall assess problems and opportunities for the industry in question and make recommendations. Discussions of the subcouncil are exempt from Federal and State anti-trust laws, and from the Federal Advisory Committee Act. Subcouncils shall terminate 30 days after making their recommendations unless the Council specifically requests the subcouncil continue.

Conference agreement

The conferees agree to a modified version of the Senate provision under which the Council may establish, for such period of time as the Council determines appropriate, subcouncils of public and private leaders to analyze specific competitiveness issues. The subcouncils shall include representatives from business, labor, government and any other persons the Council determines is appropriate and must include a representative of the Federal government. The subcouncils shall assess problems facing the industry or the policy issue in question and make recommendations to encourage adjustment and modernization of an industry, to facilitate an industry's reponse to opportunities and risks, and to alleviate the problems in a particular policy area. Discussions of the subcouncil are exempt from Federal and State anti-trust laws, and from the Federal Advisory Committee Act. Subcouncils shall terminate 30 days after making their recommendations unless the Council specifically requests the subcouncil continues.

It is the intent of the conferees that subcouncils be utilized to analyze specific competitiveness issues, such as research and development needs or education and worker retraining, and to facilitate the adjustment process of specific industries.

It is not the intent of the conferees that subcouncils be created for every industry and for every competitiveness issue, or that the subcouncils be created for an indefinite time. Subcouncils should be created by the Council only for those industries and issues which the Council believes warrants special attention and should be dissolved within a reasonable time.

Section 5207(i)—Applicability of the Federal Advisory Committee Act

Present law

Subsections (e) and (f) of section 10 of the Federal Advisory Committee Act require that an officer or employee of the Federal government chair or attend every meeting, that this officer can adjourn, and that the committee can not meet without the approval of this officer. Section 14 sunsets all advisory committees after two years, unless renewed.

House bill

No provision.

Senate amendment

Exempts the Council from subsection (e) and (f) of section 10 and from section 14, but with a 4-year sunset clause.

Conference agreement

The conferees agree to a modified version of the Senate provision exempting the Council from subsections (e) and (f) of section 10 of the Federal Advisory Committee Act (FACA). The conferees took this action to enhance the independent nature of the Council.

Section 5208—Annual Report

Present law

No provision.

House bill

Within 180 days after initial appointment of members, the Council shall report recommendations for changes in Federal policy to implement trade and competitiveness strategies. The Council shall prepare an annual report to the President and Congress on major agricultural, business and industrial development priorities, policies needed to meet these priorities and a summary of existing policies affecting industry. The report shall contain any findings and conclusions made during the past fiscal year, and recommendations for such legislation and administrative actions as the Council considers appropriate.

Senate amendment

Within 1 year of enactment, the Council shall submit a report to the President and Congress on recommendations for changes in policies, including reorganization. The Council shall prepare an annual report to Congress and the President shall contain goals to achieve a more competitive economy, policies needed to meet such goals, a summary of existing policies affecting competitiveness, and actual or foreseeable economic and technological developments affecting the competitive position of the United States. The report shall identify actual or foreseen developments which create a competitive challenge to or dislocation of U.S. industry, present an opportunity or create a risk that U.S. firms will be unable to compete—including an identification of the specific sectors affected. The report also shall contain any findings and conclusions made during the past fiscal year, and recommendations for such legislation and administrative actions as the Council considers appropriate. Each report submitted to Congress shall be referred to the appropriate committee or committees and the Council shall consult with such committees. These committees shall submit to their respective House a report setting forth the views and recommendations of the committee on the Council's report.

Conference agreement

The conferees agree to a modified version of the Senate provision requiring an annual report to the President and the Congress, specifically the Governmental Affairs Committee and other appropriate committees of the Senate, and the appropriate committees of the House of Representatives. The annual report shall contain goals to achieve a more competitive economy, policies needed to meet such goals, a summary of existing policies affecting competitiveness, and a summary of economic and technological developments affecting competitive position of U.S. The report shall identify actual or foreseen developments which create a competitive challenge to or dislocation of U.S. industry, present an opportunity or create a risk that U.S. firms will be unable to compete—including an identification of the specific sectors affected. The report also shall contain any findings and conclusions made during the past fiscal year, and recommendations for such legislation and administrative actions as the Council considers appropriate and any recommendations for the elimination, consolidation or reorganization of government agencies concerned with competitiveness issues, including trade policy and research, science and technology. Each report submitted to Congress shall be referred to the appropriate committee or committees and the Council shall consult with such committees. These committees shall submit to their respective house a report setting forth the views and recommendations of the committee on the Council's report. It is the conferees' intent in this section to ensure that close attention is paid by the Congress and the President to the Council's comments and recommendations.

Section 5209—Authorization of Appropriations

Present law

No provision.

House bill

Authorities $5 million for FY88.

Senate amendment

Authorities up to $5 million for each of FY88 and FY89.

Conference agreement

The conferees agree to a modified version of the Senate provision which authorizes up to $5 million for each of FY89 and FY90.

Section 5210—Definitions

Present law

No provision.

House bill

Defines the term "Council" as the "Council on Industrial Competitiveness, "member" as a member of the Council on Industrial Competitiveness, and "United States" as meaning each of the several states, the District of Columbia, Puerto Rico, Guam, the Virgin Islands, Northern Mariana Islands, American Samoa and any other territory or possession of the United States.

Senate amendment

Same as House bill, except uses the title "Council on Economic Competitiveness".

Conference agreement

The conferees agree to a modified version of the House provision, substituting "Competitiveness Policy Council" for "Council on Industrial Competitiveness", and adding a definition of the term "agent of a foreign principal" to have the same meaning as in the Foreign Agents Registration Act.

SUBTITLE D—FEDERAL BUDGET COMPETITIVENESS IMPACT STATEMENT

FEDERAL BUDGET COMPETITIVENESS IMPACT STATEMENT

(Section 1601–1603 of House Bill; no provision in Senate amendment)

Present law

No provision.

House bill

The House provision requires the Office of Management and Budget (OMB), in the President's annual budget submission, to assess the impact of the federal budget on the U.S. trade balance and other important economic indicators. OMB, in consultation with the Chairman of the Council of Economic Advisors, is to project, for the fiscal year in which the budget is submitted, the amount of Government borrowing in private credit markets, net domestic savings, net private domestic investment, the merchan-

dise trade and current accounts, U.S. foreign indebtedness, and the effect of Government borrowing on interest and exchange rates.

The two Congressional Budget Committees, after consultation with the Director of the Congressional Budget Office, are to include, upon submission of the concurrent budget resolutions, a similar analysis of their impact on U.S. competitiveness.

Conference agreement

The Senate conferees accept the House provision.

REDUCING THE TRADE DEFICIT BY ELIMINATING THE FEDERAL BUDGET DEFICIT

(No provision in the House bill; Title XLVIII of the Senate amendment)

Present law

No provision.

House bill

No provision.

Senate amendment

The amendment requires Congress to complete action, no later than October 1, 1987, on a constitutional amendment requiring a balanced Federal budget. The amendment also requires the President to submit a balanced budget to Congress no later than September 15, 1987.

Conference agreement

The Senate recedes.

SUBTITLE E—TRADE DATA, IMPACT, AND STUDIES

PART I—NATIONAL TRADE DATA BANK

Section 5401—Definitions

Present law

No provision.

House bill

Defines "Secretary" as the Secretary of Commerce, "Department" as the Department of Commerce and "System" as the export promotion data system.

Senate amendment

Defines "Committee" as the National Trade Data Committee, "Data Bank" as the National Trade Data Bank, and "Executive agency" as having the meaning in 5 U.S.C. 105.

Conference agreement

The conferees agree to use the relevant portions of both definitions, defining "Committee" as the Interagency Trade Data Advisory Committee, "Data Bank" as the National Trade Data Bank,

"Executive agency" as having the meaning in 5 U.S.C. 105, "Secretary" as the Secretary of Commerce, "export promotion data system" as the system established in section 3816 and currently known as the Commercial Information Management System, and "international economic data system" as the system established in section 3816 containing policymaking data.

Section 5402—Interagency Trade Data Advisory Committee

Present law

No similar provision.

House bill

No provision.

Senate amendment

A National Trade Data Committee is established, chaired by the Secretary of Commerce, with the Secretaries of Agriculture, Defense, Labor, Treasury and State, the USTR, the Director of OMB, the Director of Central Intelligence, the Chairman of the Federal Reserve Board, and the Chairman of the ITC as members. The President may appoint any other Federal officials as members. Except for the Chairman and other officials appointed by the President, each member may appoint a designee.

Conference agreement

The conferees agree to create an Interagency Trade Data Advisory Committee, to be chaired by the Secretary of Commerce, with the Secretaries of Agriculture, Defense, Labor, Treasury and State, the USTR, the Director of OMB, the Director of Central Intelligence, the Chairman of the Federal Reserve Board, and the Chairman of the ITC, the President of the Export-Import Bank, and the President of the Overseas Private Investment Corporation as members. The President may appoint any other Federal officials as members. Each member may appoint a designee.

Section 5403—Functions of the Committee

Present law

Under the Paperwork Reduction Act (P.L. 96-511), the Office of Information and Regulatory Affairs within OMB is charged with coordinating agency information practices.

House bill

No provision.

Senate amendment

The function of the Committee is the formulation and implementation of a comprehensive economic and trade information policy and to direct the Secretary of Commerce in the establishment and operation of the National Trade Data Bank.

Conference agreement

The conferees agree to create the Committee to advise the Secretary of Commerce on the operation of the National Trade Data Bank. It is the conferees' intent that the Committee, rather than OMB, serve as a focal point for interagency coordination of trade data and for the creation of a coherent trade information policy within the Federal government.

Section 5404—Consultation with private sector and government officials

Present law

No specific provision. Section 135 of the Trade Act of 1974 creates a system of advisory committees to advise USTR and the President on matters of trade negotiations and to provide technical assistance and information.

House bill

With regard to the export promotion data system, the House bill requires the Secretary to consult with representatives of the private sector, including export associations, and with State agencies that promote exports.

With regard to the National Trade Data Bank, the House bill requires the Secretary to consult with the USTR advisory committees, other representatives of the private sector and other Federal departments and agencies.

Senate amendment

With regard to the export promotion data system, the Senate amendment requires the Secretary to consult with representatives of the private sector and State agencies that promote exports. Consultations shall include data covered, cost-sharing arrangements and a forum for regular consultation.

With regard to the National Trade Data Bank, the Senate amendment requires the Committee to consult with representatives of the private sector and officials of Executive agencies and State and local governments. Consultations shall include how to make trade information more accessible, understandable and relevant and what data should be included in the export promotion data bank.

Conference agreement

The conferees agree to accept a modified version of the Senate amendment concerning the National Trade Data Bank which requires the Secretary to consult with representatives of the private sector and officials of Executive agencies and State and local governments. The conferees underscore their intent that the Secretary consult regularly with all interested parties concerning the design and operation of the data bank and concerning the type and amount of data to be included.

Section 5405—Cooperation among executive agencies

Present law

No provision.

House bill

Requires that the Secretary of Commerce determine which agencies generate information that should be included in the export promotion data system and that the President direct those agencies to provide the data bank with access to the information. For electronically stored information, the agencies must provide the necessary interconnection.

With respect to the National Trade Data Bank, the House bill requires each department and agency to cooperate with the Secretary of Commerce by making information available for the data bank and requires the Secretary to make the data contained in the data bank available to appropriate departments and agencies.

Senate amendment

Requires each executive agency to furnish to the Committee, upon request of the Chairman, such information as the Committee considers necessary and that each agency adopt and implement the information policies formulated by the Committee.

Conference agreement

The conferees agree to a modified version of the House provision which requires each department and agency to furnish such information as the Secretary of Commerce, in consultation with the Advisory Committee, considers necessary for the data bank. It is the intent of the conferees that the National Trade Data Bank be a centralized point of access for information on trade and international economics throughout the Federal government. To do so, it is important that the data bank consist of trade data from all appropriate Federal departments and agencies, not just the Commerce Department.

Section 5406—Establishment of the data bank

Present law

No provision. The Department of Commerce currently operates the Commercial Information Management System, known as CIMS, for export promotion purposes.

House bill

The House bill establishes an export promotion data system which includes data on a) U.S. exports by State of origin, port of departure and importing country; b) U.S. imports of goods and services by country of origin; c) specific business opportunities and contacts in foreign countries; d) characteristics of specific sectors with high export potential such as size of market, distribution of products, competition, applicable laws, government officials, and trade associations and other contact points; and e) general information on foreign countries such as economic conditions, commor