

Calendar No. 87

111TH CONGRESS
1ST SESSION**H. R. 2847****[Report No. 111-34]**

IN THE SENATE OF THE UNITED STATES

JUNE 22, 2009

Received; read twice and referred to the Committee on Appropriations

JUNE 25, 2009

Reported by Ms. MIKULSKI, with an amendment

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

AN ACT

Making appropriations for the Departments of Commerce and Justice, and Science, and Related Agencies for the fiscal year ending September 30, 2010, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*
3 ~~That the following sums are appropriated, out of any~~
4 ~~money in the Treasury not otherwise appropriated, for the~~
5 ~~fiscal year ending September 30, 2010, and for other pur-~~
6 ~~poses, namely:~~

1 *III of chapter 83 of that title; and (2) the present value*
2 *of the otherwise unfunded accruing costs, as determined by*
3 *the Office of Personnel Management, of post-retirement life*
4 *insurance and post-retirement health benefits coverage for*
5 *all USPTO employees, shall be transferred to the Civil Serv-*
6 *ice Retirement and Disability Fund, the Employees Life In-*
7 *surance Fund, and the Employees Health Benefits Fund,*
8 *as appropriate, and shall be available for the authorized*
9 *purposes of those accounts: Provided further, That sections*
10 *801, 802, and 803 of division B, Public Law 108–447 shall*
11 *remain in effect during fiscal year 2010: Provided further,*
12 *That the Director may, this year, reduce by regulation fees*
13 *payable for documents in patent and trademark matters,*
14 *in connection with the filing of documents filed electroni-*
15 *cally in a form prescribed by the Director: Provided further,*
16 *That \$2,000,000 shall be transferred to “Office of Inspector*
17 *General” for activities associated with carrying out inves-*
18 *tigations and audits related to the USPTO.*

19 *NATIONAL INSTITUTE OF STANDARDS AND TECHNOLOGY*
20 *SCIENTIFIC AND TECHNICAL RESEARCH AND SERVICES*

21 *For necessary expenses of the National Institute of*
22 *Standards and Technology, \$520,300,000, to remain avail-*
23 *able until expended, of which not to exceed \$9,000,000 may*
24 *be transferred to the “Working Capital Fund”: Provided,*
25 *That not to exceed \$5,000 shall be for official reception and*

1 *representation expenses: Provided further, That within the*
2 *amounts appropriated, \$10,500,000 shall be used for the*
3 *projects, and in the amounts, specified in the table entitled*
4 *“Congressionally designated projects” in the report of the*
5 *Committee on Appropriations of the Senate to accompany*
6 *this Act.*

7 *INDUSTRIAL TECHNOLOGY SERVICES*

8 *For necessary expenses of the Hollings Manufacturing*
9 *Extension Partnership of the National Institute of Stand-*
10 *ards and Technology, \$124,700,000, to remain available*
11 *until expended. In addition, for necessary expenses of the*
12 *Technology Innovation Program of the National Institute*
13 *of Standards and Technology, \$69,900,000, to remain*
14 *available until expended.*

15 *CONSTRUCTION OF RESEARCH FACILITIES*

16 *For construction of new research facilities, including*
17 *architectural and engineering design, and for renovation*
18 *and maintenance of existing facilities, not otherwise pro-*
19 *vided for the National Institute of Standards and Tech-*
20 *nology, as authorized by 15 U.S.C. 278c–278e,*
21 *\$163,900,000, to remain available until expended: Pro-*
22 *vided, That within the amounts appropriated, \$47,000,000*
23 *shall be used for the projects, and in the amounts, specified*
24 *in the table entitled “Congressionally designated projects”*
25 *in the report of the Committee on Appropriations of the*

1 *Senate to accompany this Act: Provided further, That the*
2 *Secretary of Commerce shall include in the budget justifica-*
3 *tion materials that the Secretary submits to Congress in*
4 *support of the Department of Commerce budget (as sub-*
5 *mitted with the budget of the President under section*
6 *1105(a) of title 31, United States Code) an estimate for each*
7 *National Institute of Standards and Technology construc-*
8 *tion project having a total multi-year program cost of more*
9 *than \$5,000,000 and simultaneously the budget justification*
10 *materials shall include an estimate of the budgetary re-*
11 *quirements for each such project for each of the five subse-*
12 *quent fiscal years.*

13 *NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION*
14 *OPERATIONS, RESEARCH, AND FACILITIES*
15 *(INCLUDING TRANSFERS OF FUNDS)*

16 *For necessary expenses of activities authorized by law*
17 *for the National Oceanic and Atmospheric Administration,*
18 *including maintenance, operation, and hire of aircraft and*
19 *vessels; grants, contracts, or other payments to nonprofit*
20 *organizations for the purposes of conducting activities pur-*
21 *suant to cooperative agreements; and relocation of facilities,*
22 *\$3,301,131,000, to remain available until September 30,*
23 *2011, except for funds provided for cooperative enforcement,*
24 *which shall remain available until September 30, 2012:*
25 *Provided, That fees and donations received by the National*

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111TH CONGRESS }
1st Session }

SENATE

{ REPORT
111-34

DEPARTMENTS OF COMMERCE AND JUSTICE, AND
SCIENCE, AND RELATED AGENCIES APPROPRIATIONS
BILL, 2010

JUNE 25, 2009.—Ordered to be printed

Ms. MIKULSKI, from the Committee on Appropriations,
submitted the following

REPORT

[To accompany H.R. 2847]

The Committee on Appropriations to which was referred the bill (H.R. 2847) making appropriations for the Departments of Commerce and Justice, and Science, and Related Agencies for the fiscal year ending September 30, 2010, and for other purposes, reports the same to the Senate with an amendment, and recommends that the bill, as amended, do pass.

Total obligational authority, fiscal year 2010

| | |
|---|-----------------------------|
| Total of bill as reported to the Senate | \$67,492,432,000 |
| Amount of 2009 appropriations | ¹ 76,101,698,000 |
| Amount of 2010 budget estimate | 67,183,677,000 |
| Amount of House allowance | 67,196,907,000 |
| Bill as recommended to Senate compared to— | |
| 2009 appropriations | – 8,609,266,000 |
| 2010 budget estimate | + 308,755,000 |
| House allowance | + 295,525,000 |

¹ Includes \$16,209,675,000 in emergency appropriations provided in the American Recovery and Reinvestment Act of 2009 and other supplemental appropriation funding acts.

stricted access to \$25,000,000 until the director begins a comprehensive re-evaluation of the work productivity goals for patent examiners.

Any deviations from the funding distribution provided for in this act, including carryover balances, are subject to the standard re-programming procedures set forth in section 505 of this act. In addition, 60 days after the date of enactment of this act, the USPTO shall submit to the Committee on Appropriations of the Senate a spending plan for fiscal year 2010. This spending plan shall incorporate all carryover balances from previous fiscal years, and describe any changes to the patent or trademark fee structure.

NATIONAL INSTITUTE OF STANDARDS AND TECHNOLOGY

| | |
|--------------------------------|-----------------|
| Appropriations, 2009 | \$1,399,000,000 |
| Budget estimate, 2010 | 846,100,000 |
| House allowance | 781,100,000 |
| Committee recommendation | 878,800,000 |

The Committee’s recommendation provides \$878,800,000 for the National Institute of Standards and Technology [NIST]. The recommendation is \$59,800,000 above the fiscal year 2009 enacted level not including supplemental funding and \$32,700,000 above the budget request.

The recommendation provides that up to \$9,000,000 may be transferred from the Scientific and Technical Research and Services account to the Working Capital Fund, which the NIST uses to purchase equipment for its laboratories.

NIST’s mission is to promote U.S. innovation and industrial competitiveness by advancing measurement science, standards, and technology in ways that enhance economic security and improve our quality of life. It carries out its mission in four complementary programs.

A description of each NIST account and the corresponding Committee recommendation follows in the subsequent three headings.

SCIENTIFIC AND TECHNICAL RESEARCH AND SERVICES

| | |
|--------------------------------|----------------------------|
| Appropriations, 2009 | ¹ \$692,000,000 |
| Budget estimate, 2010 | 534,600,000 |
| House allowance | 510,000,000 |
| Committee recommendation | 520,300,000 |

¹Includes \$220,000,000 in American Recovery and Reinvestment Act of 2009 (Public Law 111–5) funding.

The Committee recommendation provides \$520,300,000. The recommendation is \$48,300,000 above the fiscal year 2009 enacted level not including supplemental funding and \$14,300,000 below the budget request.

The Committee’s recommendations are displayed in the following table with specific increases described:

SCIENTIFIC AND TECHNICAL RESEARCH AND SERVICES, DIRECT OBLIGATIONS

[In thousands of dollars]

| | Committee recommendation |
|---|--------------------------|
| Laboratories and technical programs | 462,667 |
| Innovations in measurement science | 20,199 |

SCIENTIFIC AND TECHNICAL RESEARCH AND SERVICES, DIRECT OBLIGATIONS—Continued

[In thousands of dollars]

| | Committee recommendation |
|---|--------------------------|
| Next generation measurements training | 11,030 |
| Baldrige National Quality Program | 9,627 |
| Corporate Services | 16,777 |
| Total STRS | 520,300 |

The Scientific and Technical Research account funds NIST Laboratories, which provide the measurement science and physical standards critical to supporting technology infrastructure for U.S. innovation. NIST is one of the science agencies supported by the America COMPETES Act of 2007 (Public Law 110–69), doubling funding for basic research over 10 years. The recommendation supports many of the administration’s new initiatives, increasing research funding by more than 7 percent over the 2009 fiscal year level. Within the funds provided, NIST is directed to expand its capabilities and resources into the Pacific region through a Pacific Islands component of NIST, and is provided \$750,000 to expand its biodiversity storage capabilities into the region.

The Committee includes funding within the amounts provided for Strategic Measurement Partnerships for the following congressionally designated projects, and directs the National Institute of Standards and Technology to refrain from charging administrative costs to these grants. The Committee expects that the National Institute of Standards and Technology will provide appropriate management and oversight of each grant.

NATIONAL INSTITUTE OF STANDARDS AND TECHNOLOGY—SCIENTIFIC AND TECHNICAL RESEARCH AND SERVICES

[Congressionally designated projects]

| Recipient | Project | Description | Amount |
|---|--|---|-----------|
| LSU A&M, Baton Rouge, LA | Center for Digital Innovation | Develop exascale computing and digital media technologies ... | 1,000,000 |
| George Mason University, Arlington, VA | Center for Infrastructure Protection (CIP) | Support Cybersecurity and Cyber Conflict Analysis project | 550,000 |
| University of Rhode Island, Kingston, RI | Rhode Island Consortium for Nanoscience and Nanotechnology. | Advance the synthesis and manufacturing of nanomaterials ... | 1,250,000 |
| University of Hawaii, Maui, HI | Hawaii Open Supercomputing Center | Establish high performance supercomputing capability | 5,000,000 |
| University at Albany (SUNY), College of Nanoscale Science and Engineering (CNSE), Albany, NY. | Development and Deployment of New Nanoscale Measurement Strategies. | Increase infrastructure and equipment resources for advanced biomedical and nanomedical technology. | 500,000 |
| University of Maryland Baltimore County, Baltimore, MD | Maryland Center of Excellence for Terahertz Science and Application. | Research and develop tools for emerging terahertz technology. | 2,000,000 |
| University of Kentucky, Lexington, KY | Firefighter Gear Safety Research Program | Research the performance of firefighter turnout gear to reduce safety risks and potential health risks. | 200,000 |

INDUSTRIAL TECHNOLOGY SERVICES

| | |
|--------------------------------|---------------|
| Appropriations, 2009 | \$175,000,000 |
| Budget estimate, 2010 | 194,600,000 |
| House allowance | 194,600,000 |
| Committee recommendation | 194,600,000 |

The Committee's recommendation provides \$194,600,000 for Industrial Technology Services [ITS]. The recommendation is \$19,600,000 above the fiscal year 2009 enacted level and equal to budget request.

Supporting the Nation's manufacturers, especially small businesses, is critical to keeping America innovative in a global marketplace. ITS provides a bridge for advancing cutting-edge technologies with cost-saving measures. The Committee is encouraged by the administration's healthy request for ITS, which shows a genuine intention to partner with industry for the benefit of the Nation's future. The Committee supports NIST's requested allocation of funding for the Hollings Manufacturing Extension Program [MEP] and the Technology Innovation Program.

Within MEP, NIST, and its partners are directed to consider the importance automation plays in accelerating and integrating manufacturing processes. The topic of automation cuts across all levels of industry, rather than serving as a stand-alone technology, and particularly affects the fields of control systems cyber security, industrial wireless sensors, systems interoperability, and other basic automation technologies necessary for the success of industrial enterprises. NIST is encouraged to consult and collaborate with independent experts in the field of automation to support the agency's efforts in working with industry to increase innovation, trade, security, and jobs.

CONSTRUCTION OF RESEARCH FACILITIES

| | |
|--------------------------------|----------------------------|
| Appropriations, 2009 | ¹ \$532,000,000 |
| Budget estimate, 2010 | 116,900,000 |
| House allowance | 76,500,000 |
| Committee recommendation | 163,900,000 |

¹ Includes \$360,000,000 in American Recovery and Reinvestment Act of 2009 (Public Law 111-5) funding.

The Committee's recommendation provides \$163,900,000 for construction of research facilities. The recommendation is \$8,100,000 below the fiscal year 2009 enacted level not including supplemental funding and \$47,000,000 above the budget request.

The recommendation funds the highest priority safety, capacity, maintenance, and repair projects at NIST.

JILA Expansion.—The Committee has learned that NIST has not entered into a formal acquisition agreement with its partners to expand the JILA facility. Within 60 days of enactment of this act, the agency shall amend its formal memorandum of understanding with JILA partners to incorporate language addressing each party's responsibility including project contingencies and cost overruns.

The Committee directs NIST to provide quarterly reports on the status of all construction projects.

The Committee provides \$47,000,000 for congressionally designated projects, and directs the National Institute of Standards and Technology to refrain from charging administrative costs to

these grants. The Committee expects that the National Institute of Standards and Technology will provide appropriate management and oversight of each grant.

NATIONAL INSTITUTE OF STANDARDS AND TECHNOLOGY—SCIENTIFIC AND TECHNICAL RESEARCH AND SERVICES
 [Congressionally designated projects]

| Recipient | Project | Description | Amount |
|---|---|--|--------------|
| University of Alabama, Tuscaloosa, AL | Interdisciplinary Science and Engineering Teaching and Research Corridor. | Construct Interdisciplinary Science and Engineering Buildings. | \$30,000,000 |
| Mississippi State University, Starkville, MS | Expansion of the Research, Technology and Economic Development Park. | Commercialize technologies developed through research | 6,000,000 |
| University of Mississippi Medical Center, Jackson, MS | Biotechnology Research Park | Commercialize new biotechnologies | 6,000,000 |
| North Dakota State University, Fargo, ND | Advanced Nanomaterials Research Facility | Construct a state-of-the-art nanomaterials research facility ... | 5,000,000 |