

(4) That an independent, commercial auditor be retained (A) to determine the extent to which the funds made available to Sematech by the United States for the research and development activities of Sematech have been expended in a manner that is consistent with the purposes of this subchapter, the charter of Sematech, and the annual operating plan of Sematech, and (B) to submit to the Secretary of Defense, Sematech, and the Comptroller General of the United States an annual report containing the findings and determinations of such auditor.

(5) That (A) the Secretary of Defense be permitted to use intellectual property, trade secrets, and technical data owned and developed by Sematech in the same manner as a participant in Sematech and to transfer such intellectual property, trade secrets, and technical data to Department of Defense contractors for use in connection with Department of Defense requirements, and (B) the Secretary not be permitted to transfer such property to any person for commercial use.

(6) That Sematech take all steps necessary to maximize the expeditious and timely transfer of technology developed and owned by Sematech to the participants in Sematech in accordance with the agreement between Sematech and those participants and for the purpose of improving manufacturing productivity of United States semiconductor firms.

(c) Construction of memorandum of understanding

The memorandum of understanding entered into under subsection (b) of this section shall not be considered to be a contract for the purpose of any law or regulation relating to the formation, content, and administration of contracts awarded by the Federal Government and subcontracts under such contracts, including section 2306a of title 10, section 2168 of the Appendix to title 50, and the Federal Acquisition Regulations, and such provisions of law and regulation shall not apply with respect to the memorandum of understanding.

(d) Funding for FY88

Of the amounts appropriated to the Defense Agencies for fiscal year 1988 for research, development, test, and evaluation, \$100,000,000 may be obligated only to make grants under this section.

(Pub. L. 100-180, div. A, title II, § 272, Dec. 4, 1987, 101 Stat. 1068; Pub. L. 103-160, div. A, title II, § 263(c)(2), Nov. 30, 1993, 107 Stat. 1610.)

AMENDMENTS

1993—Subsec. (b)(1)(B). Pub. L. 103-160 substituted “Semiconductor Technology Council” for “Advisory Council on Federal Participation in Sematech”.

§ 4603. Semiconductor Technology Council

(a) Establishment

There is established the Semiconductor Technology Council.

(b) Purposes and functions

(1) The purposes of the Council are the following:

(A) To link assessment by the semiconductor industry of future market and national security needs to opportunities for technology development through cooperative public and private investment.

(B) To seek ways to respond to the technology challenges for semiconductors by fostering precompetitive cooperation among industry, the Federal Government, and institutions of higher education.

(C) To make available judgments, assessments, insights, and recommendations that relate to the opportunities for new research and development efforts and the potential to better rationalize and align industry and government contributions to semiconductor research and development.

(2) The Council shall carry out the following functions:

(A) Advise Sematech and the Secretary of Defense on appropriate technology goals and appropriate level of effort for the research and development activities of Sematech.

(B) Review the emerging markets, technology developments, and core technology challenges for semiconductor research and development and semiconductor manufacturing and explore opportunities for improved coordination among industry, the Federal Government, and institutions of higher education regarding such developments and challenges.

(C) Assess the effect on the appropriate role of Sematech of public and private sector international agreements in semiconductor research and development.

(D) Exchange views regarding the competitiveness of United States semiconductor technology and new or emerging semiconductor technologies that could affect national economic and security interests.

(E) Exchange and update information and identify overlaps and gaps regarding the efforts of industry, the Federal Government, and institutions of higher education in semiconductor research and development.

(F) Assess technology progress relative to industry requirements and Federal Government requirements, responding as appropriate to the challenges in the national semiconductor technology roadmap developed by representatives of industry, the Federal Government, and institutions of higher education.

(G) Make recommendations regarding the semiconductor technology development efforts that should be supported by Federal agencies and industry.

(H) Appoint subgroups as appropriate in connection with the updating of the semiconductor technology roadmap.

(I) Publish and submit to Congress by March 31 of each year an annual report addressing the semiconductor technology challenges and developments for industry, government, and institutions of higher education and the relationship among the challenges and developments for each, including an evaluation of the role of Sematech.

(c) Membership

The Council shall be composed of 16 members as follows:

(1) The Under Secretary of Defense for Acquisition, Technology, and Logistics who shall be Cochairman of the Council.

(2) The Under Secretary of Energy responsible for science and technology matters.

(3) The Under Secretary of Commerce for Technology.

(4) The Director of the Office of Science and Technology Policy.

(5) The Assistant to the President for Economic Policy.

(6) The Director of the National Science Foundation.

(7) Ten members appointed by the President as follows:

(A) Four individuals who are eminent in the semiconductor device industry, one of whom shall be Cochairman of the Council.

(B) Two individuals who are eminent in the semiconductor equipment and materials industry.

(C) Three individuals who are eminent in the semiconductor user industry, including representatives from the telecommunications and computer industries.

(D) One individual who is eminent in an academic institution.

(d) Terms of membership

Each member of the Council appointed under subsection (c)(7) of this section shall be appointed for a term of three years, except that of the members first appointed, two shall be appointed for a term of one year, five shall be appointed for a term of two years, and three shall be appointed for a term of three years, as designated by the President at the time of appointment. A member of the Council may serve after the expiration of the member's term until a successor has taken office.

(e) Vacancies

A vacancy in the Council shall not affect its powers but, in the case of a member appointed under subsection (c)(7) of this section, shall be filled in the same manner as the original appointment was made. Any member appointed to fill a vacancy for an unexpired term shall be appointed for the remainder of such term.

(f) Quorum

Eleven members of the Council shall constitute a quorum.

(g) Meetings

The Council shall meet at the call of a Cochairman.

(h) Compensation

(1) Each member of the Council shall serve without compensation.

(2) While away from their homes or regular places of business in the performance of duties for the Council, members of the Council shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under sections 5702 and 5703 of title 5.

(i) Federal Advisory Committee Act

Section 14 of the Federal Advisory Committee Act shall not apply to the Council.

(j) Support for Council

The Council shall use Federal funds made available to Sematech as needed for general and

administrative support in accomplishing the Council's purposes.

(Pub. L. 100-180, div. A, title II, § 273, Dec. 4, 1987, 101 Stat. 1070; Pub. L. 102-245, title I, § 103(e), Feb. 14, 1992, 106 Stat. 9; Pub. L. 103-160, div. A, title II, § 263(b), (c)(3)-(e), Nov. 30, 1993, 107 Stat. 1608, 1610; Pub. L. 103-337, div. A, title II, § 251, Oct. 5, 1994, 108 Stat. 2702; Pub. L. 106-65, div. A, title IX, § 911(a)(1), Oct. 5, 1999, 113 Stat. 717.)

REFERENCES IN TEXT

Section 14 of the Federal Advisory Committee Act, referred to in subsec. (i), is section 14 of Pub. L. 92-463, which is set out in the Appendix to Title 5, Government Organization and Employees.

AMENDMENTS

1999—Subsec. (c)(1). Pub. L. 106-65 substituted "Under Secretary of Defense for Acquisition, Technology, and Logistics" for "Under Secretary of Defense for Acquisition and Technology".

1994—Subsec. (b)(2)(I). Pub. L. 103-337 inserted "and submit to Congress by March 31 of each year" after "Publish".

1993—Pub. L. 103-160, § 263(b), substituted "Semiconductor Technology Council" for "Advisory Council" in section catchline.

Subsec. (a). Pub. L. 103-160, § 263(b), added subsec. (a) and struck out former subsec. (a) which read as follows: "There is established the Advisory Council on Federal Participation in Sematech."

Subsec. (b). Pub. L. 103-160, § 263(b), added subsec. (b) and struck out former subsec. (b) which related to the functions of the Advisory Council of Federal Participation in Sematech.

Subsec. (c). Pub. L. 103-160, § 263(b), added subsec. (c) and struck out former subsec. (c) which related to the membership of the Advisory Council on Federal Participation in Sematech.

Subsec. (d). Pub. L. 103-160, § 263(c)(3)(A), substituted "subsection (c)(7)" for "subsection (c)(6)" and "five shall be appointed for a term of two years" for "two shall be appointed for a term of two years".

Subsec. (e). Pub. L. 103-160, § 263(c)(3)(B), substituted "subsection (c)(7)" for "subsection (c)(6)".

Subsec. (f). Pub. L. 103-160, § 263(c)(3)(C), substituted "Eleven members" for "Seven members".

Subsec. (g). Pub. L. 103-160, § 263(d), substituted "a Cochairman" for "the Chairman or a majority of its members".

Subsec. (j). Pub. L. 103-160, § 263(e), added subsec. (j). 1992—Subsec. (c)(4). Pub. L. 102-245 substituted "Technology" for "Economic Affairs".

TERMINATION OF ADVISORY COUNCIL ON FEDERAL PARTICIPATION IN SEMATECH

Section 263(a) of Pub. L. 103-160 provided that: "The advisory council known as the Advisory Council on Federal Participation in Sematech, established by section 273 of the National Defense Authorization Act for Fiscal Years 1988 and 1989 (15 U.S.C. 4603), is hereby terminated."

FIRST MEETING OF SEMICONDUCTOR TECHNOLOGY COUNCIL

Section 263(f) of Pub. L. 103-160 provided that: "The first meeting of the Semiconductor Technology Council shall be held not later than 45 days after the date of the enactment of this Act [Nov. 30, 1993]."

REFERENCES TO TERMINATED COUNCIL

Section 263(g) of Pub. L. 103-160 provided that: "A reference in any provision of law to the Advisory Council on Federal Participation in Sematech shall be deemed to refer to the Semiconductor Technology Council established by section 273 of the National Defense Authorization Act for Fiscal Years 1988 and 1989 [15 U.S.C. 4603], as amended by subsection (b)."

§ 4603a. Study and report by Semiconductor Technology Council

(a) Study and report

Not later than February 1, 1989, and annually thereafter for each fiscal year in which appropriated funds are expended for Sematech the Semiconductor Technology Council established under section 4603(a) of this title shall conduct a study and submit a report to the Governmental Affairs Committee and the Armed Services Committee of the Senate and to appropriate committees of the House of Representatives concerning Federal participation in Sematech. The study and report shall be conducted under the direction of the Under Secretary of Commerce for Technology.

(b) Council recommendations and report

The Council shall include in the report submitted under subsection (a) of this section the following:

(1) identification of potential sources of Federal funding from department and agency budgets for Sematech and recommendations concerning methods and terms of Federal financial participation in Sematech, including grants, loans, loan guarantees, and contributions in kind. The feasibility of methods of Federal recoupment shall also be considered;

(2) definition and assessment of continued Federal participation in Sematech including, but not limited to, issues of technology research and development, civilian and defense industrial base objectives and initiatives, and commercialization. The report shall include a summary of the most recent plans, milestones, and cost estimates for Sematech, including any changes and alterations, and shall comment on Sematech's accomplishments and shortfalls in the preceding fiscal year;

(3) coordination of inter-agency participation, including all matters pertaining to Federal funding and decisionmaking, and other issues regarding Federal participation in Sematech; and

(4) any other issues and questions the Council deems appropriate shall be considered.

(Pub. L. 100-418, title V, § 5422, Aug. 23, 1988, 102 Stat. 1468; Pub. L. 102-245, title I, § 103(e), Feb. 14, 1992, 106 Stat. 9; Pub. L. 103-160, div. A, title II, § 263(g), Nov. 30, 1993, 107 Stat. 1610.)

CODIFICATION

Section was enacted as part of the Omnibus Trade and Competitiveness Act of 1988, and not as part of part F of title II of division A of Pub. L. 100-180 which comprises this subchapter.

AMENDMENTS

1993—Pub. L. 103-160 substituted “Semiconductor Technology Council” for “Advisory Council on Federal Participation in Sematech” in section catchline and subsec. (a).

1992—Subsec. (a). Pub. L. 102-245 substituted “Technology” for “Economic Affairs”.

CHANGE OF NAME

Committee on Governmental Affairs of Senate changed to Committee on Homeland Security and Governmental Affairs of Senate, effective Jan. 4, 2005, by Senate Resolution No. 445, One Hundred Eighth Congress, Oct. 9, 2004.

§ 4604. Repealed. Pub. L. 104-66, title I, § 1031(a)(2), Dec. 21, 1995, 109 Stat. 714

Section, Pub. L. 100-180, div. A, title II, § 274, Dec. 4, 1987, 101 Stat. 1071, directed Comptroller General to review annual reports submitted by auditor on Sematech funding and transmit comments to Congress.

§ 4605. Export of semiconductor manufacturing

Any export of materials, equipment, and technology developed by Sematech in whole or in part with financial assistance provided under section 4602(a) of this title shall be subject to the Export Administration Act of 1979 (50 U.S.C. App. 2401 et seq.) and shall not be subject to the Arms Export Control Act [22 U.S.C. 2751 et seq.]. (Pub. L. 100-180, div. A, title II, § 275, Dec. 4, 1987, 101 Stat. 1071.)

REFERENCES IN TEXT

The Export Administration Act of 1979, referred to in text, is Pub. L. 96-72, Sept. 29, 1979, 93 Stat. 503, as amended, which is classified principally to section 2401 et seq. of Title 50, Appendix, War and National Defense. For complete classification of this Act to the Code, see Short Title note set out under section 2401 of Title 50, Appendix, and Tables.

The Arms Export Control Act, referred to in text, is Pub. L. 90-629, Oct. 22, 1968, 82 Stat. 1320, as amended, which is classified principally to chapter 39 (§ 2751 et seq.) of Title 22, Foreign Relations and Intercourse. For complete classification of this Act to the Code, see Short Title note set out under section 2751 of Title 22 and Tables.

§ 4606. Protection of information

(a) Freedom of Information Act

Section 552 of title 5 shall not apply to information obtained by the Federal Government on a confidential basis under section 4602(b)(5) of this title.

(b) Intellectual property

Notwithstanding any other provision of law, intellectual property, trade secrets, and technical data owned and developed by Sematech or any of the participants in Sematech may not be disclosed by any officer or employee of the Department of Defense except as provided in the provision included in the memorandum of understanding pursuant to section 4602(b)(5) of this title.

(Pub. L. 100-180, div. A, title II, § 276, Dec. 4, 1987, 101 Stat. 1071.)

SUBCHAPTER II—DEPARTMENT OF ENERGY SEMICONDUCTOR TECHNOLOGY RESEARCH EXCELLENCE INITIATIVE

§ 4621. Findings

Congress makes the following findings:

(1) Semiconductors and related microelectronic devices are key components in computers, telecommunications equipment, advanced defense systems, and other equipment.

(2) Aggregate sales of such equipment, in excess of \$230,000,000,000 annually, comprise a significant portion of the gross national product of the United States.

(3) The leadership position of the United States in advanced technology is threatened by (A) competition from foreign businesses