104TH CONGRESS, 1st Session } HOUSE OF REPRESENTATIVES { REPORT 104–232

AMERICAN TECHNOLOGY ADVANCEMENT ACT OF 1995

AUGUST 4, 1995.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. WALKER, from the Committee on Science, submitted the following

R E P O R T

together with

ADDITIONAL AND MINORITY VIEWS

AND

THE LEGISLATIVE MARKUPS OF THE SUBCOMMITTEE ON TECHNOLOGY AND THE COMMITTEE ON SCIENCE

[To accompany H.R. 1870]

[Including cost estimate of the Congressional Budget Office]

The Committee on Science, to whom was referred the bill (H.R. 1870) to authorize appropriations for the activities of the Under Secretary of Commerce for Technology, and for Scientific and Technical Research Services and Construction of Research Facilities activities of the National Institute of Standards and Technology, for fiscal year 1996, and for other purposes, having considered the same, report favorably thereon with an amendment and recommends that the bill as amended do pass.

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I. AMENDMENT

The amendment is as follows:

Strike out all after the enacting clause and insert in lieu thereof the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "American Technology Advancement Act of 1995".

SEC. 2. AUTHORIZATION OF APPROPRIATIONS.

(a) UNDER SECRETARY FOR TECHNOLOGY.—There are authorized to be appropriated to the Secretary of Commerce for the activities of the Under Secretary for Technology/Office of Technology Policy $5,066,000 for fiscal year 1996.

(b) NATIONAL INSTITUTE OF STANDARDS AND TECHNOLOGY.—There are authorized to be appropriated to the Secretary of Commerce for the following activities of the National Institute of Standards and Technology:

(1) For Scientific and Technical Research and Services, $275,579,000 for fiscal year 1996, of which—

(A) $39,628,000 shall be for Electronics and Electrical Engineering;

(B) $19,565,000 shall be for Manufacturing Engineering;

(C) $28,127,000 shall be for Chemical Science and Technology;

(D) $28,082,000 shall be for Physics;

(E) $54,314,000 shall be for Material Science and Engineering;

(F) $13,517,000 shall be for Building and Fire Research;

(G) $30,704,000 shall be for Computer Systems;

(H) $10,964,000 shall be for Applied Mathematics and Scientific Computing;

(I) $19,109,000 shall be for Technical Assistance;

(J) $28,169,000 shall be for Research Support; and

(K) $3,400,000 shall be for the Malcolm Baldrige National Quality Program under section 17 of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3711a); and

(2) for Construction of Research Facilities, $62,055,000 for fiscal year 1996.

SEC. 3. NATIONAL INSTITUTE OF STANDARDS AND TECHNOLOGY ACT AMENDMENTS.

The National Institute of Standards and Technology Act (15 U.S.C. 271 et seq.) is amended—

(1) in section 10(a)—

(A) by striking "nine" and inserting in lieu thereof "15"; and

(B) by striking "five" and inserting in lieu thereof "10";

(2) in section 15—

(A) by striking "Pay Act of 1945; and" and inserting in lieu thereof "Pay Act of 1945;"; and

(B) by inserting "; and (h) the provision of transportation services for employees of the Institute between the facilities of the Institute and nearby public transportation, notwithstanding section 1344 of title 31, United States Code" after "interests of the Government"; and

(3) in section 19, by striking "nor more than forty" and inserting in lieu thereof "nor more than 60".

SEC. 4. STEVENSON-WYDLER TECHNOLOGY INNOVATION ACT OF 1980 AMENDMENTS.

The Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3701 et seq.) is amended—

(1) in section 11(i) (15 U.S.C. 3710(i))—

(A) by inserting "loan, lease," after "department, may"; and

(B) by inserting "Actions taken under this subsection shall not be subject to Federal requirements on the disposal of property." after "education and research activities."; and

(2) in section 17(c) (15 U.S.C. 3711a(c))—

(A) by striking paragraph (2);

(B) by redesignating paragraph (3) as paragraph (2); and

(C) in paragraph (2), as so redesignated by subparagraph (B) of this paragraph, by striking "two" and inserting in lieu thereof "4".

SEC. 5. PERSONNEL.

The personnel management demonstration project established under section 10 of the National Bureau of Standards Authorization Act for Fiscal Year 1987 (15 U.S.C. 275 note) is extended indefinitely.

SEC. 6. FASTENER QUALITY ACT AMENDMENTS.

(a) SECTION 2 AMENDMENTS.—Section 2 of the Fastener Quality Act (15 U.S.C. 5401) is amended—

(1) by striking subsection (a)(4), and redesignating paragraphs (5) through (9) as paragraphs (4) through (8), respectively;

(2) in subsection (a)(7), as so redesignated by paragraph (1) of this subsection, by striking "by lot number"; and

(3) in subsection (b), by striking "used in critical applications" and inserting in lieu thereof "in commerce".

(b) SECTION 3 AMENDMENTS.—Section 3 of the Fastener Quality Act (15 U.S.C. 5402) is amended—

(1) in paragraph (1)(B) by striking "having a minimum tensile strength of 150,000 pounds per square inch" and inserting in lieu thereof "having a minimum Rockwell C hardness of 40 or above";

(2) in paragraph (2)—

(A) by inserting "International Organization for Standardization," after "Society of Automotive Engineers,"; and

(B) by inserting "consensus" after "or any other";

(3) in paragraph (5)—

(A) by inserting "or" after "standard or specification," in subparagraph (B);

(B) by striking "or" at the end of subparagraph (C);

(C) by striking subparagraph (D); and

(D) by inserting "or produced in accordance with ASTM F 432" after "307 Grade A";

(4) in paragraph (6) by striking "other person" and inserting in lieu thereof "government agency";

(5) in paragraph (8) by striking "Standard" and inserting in lieu thereof "Standards";

(6) by striking paragraph (11) and redesignating paragraphs (12) through (15) as paragraphs (11) through (14), respectively;

(7) in paragraph (13), as so redesignated by paragraph (6) of this subsection, by striking ", a government agency" and all that follows through "markings of any fastener" and inserting in lieu thereof "or a government agency"; and

(8) in paragraph (14), as so redesignated by paragraph (6) of this subsection, by inserting "for the purpose of achieving a uniform hardness" after "quenching and tempering".

(c) SECTION 4 REPEAL.—Section 4 of the Fastener Quality Act (15 U.S.C. 5403) is repealed.

(d) SECTION 5 AMENDMENTS.—Section 5 of the Fastener Quality Act (15 U.S.C. 5404) is amended—

(1) in subsection (a)(1)(B) and (2)(A)(i) by striking "subsections (b) and (c)" and inserting in lieu thereof "subsections (b), (c), and (d)";

(2) in subsection (c)(2) by striking "or, where applicable" and all that follows through "section 7(c)(1)";

(3) in subsection (c)(3) by striking ", such as the chemical, dimensional, physical, mechanical, and any other";

(4) in subsection (c)(4) by inserting "except as provided in subsection (d)," before "state whether"; and

(5) by adding at the end the following new subsection:

"(d) ALTERNATIVE PROCEDURE FOR CHEMICAL CHARACTERISTICS.—Notwithstanding the requirements of subsections (b) and (c), a manufacturer shall be deemed to have demonstrated, for purposes of subsection (a)(1), that the chemical characteristics of a lot conform to the standards and specifications to which the manufacturer represents such lot has been manufactured if the following requirements are met:

"(1) The coil or heat number of metal from which such lot was fabricated has been inspected and tested with respect to its chemical characteristics by a laboratory accredited in accordance with the procedures and conditions specified by the Secretary under section 6.

"(2) Such laboratory has provided to the manufacturer, either directly or through the metal manufacturer, a written inspection and testing report, which shall be in a form prescribed by the Secretary by regulation, listing the chemical characteristics of such coil or heat number.

"(3) The report described in paragraph (2) indicates that the chemical characteristics of such coil or heat number conform to those required by the standards and specifications to which the manufacturer represents such lot has been manufactured.

"(4) The manufacturer demonstrates that such lot has been fabricated from the coil or heat number of metal to which the report described in paragraphs (2) and (3) relates.

In prescribing the form of report required by subsection (c), the Secretary shall provide for an alternative to the statement required by subsection (c)(4), insofar as such statement pertains to chemical characteristics, for cases in which a manufacturer elects to use the procedure permitted by this subsection.".

(e) SECTION 6 AMENDMENT.—Section 6(a)(1) of the Fastener Quality Act (15 U.S.C. 5405(a)(1)) is amended by striking "Within 180 days after the date of enactment of this Act, the" and inserting in lieu thereof "The".

(f) SECTION 7 AMENDMENTS.—Section 7 of the Fastener Quality Act (15 U.S.C. 5406) is amended—

(1) by amending subsection (a) to read as follows:

"(a) DOMESTICALLY PRODUCED FASTENERS.—It shall be unlawful for a manufacturer to sell any shipment of fasteners covered by this Act which are manufactured in the United States unless the fasteners—

"(1) have been manufactured according to the requirements of the applicable standards and specifications and have been inspected and tested by a laboratory accredited in accordance with the procedures and conditions specified by the Secretary under section 6; and

"(2) an original laboratory testing report described in section 5(c) and a manufacturer's certificate of conformance are on file with the manufacturer, or under such custody as may be prescribed by the Secretary, and available for inspection.";

(2) in subsection (c)(2) by inserting "to the same" after "in the same manner and";

(3) in subsection (d)(1) by striking "certificate" and inserting in lieu thereof "test report"; and

(4) by striking subsections (e), (f), and (g) and inserting in lieu thereof the following:

"(e) SUBSEQUENT PURCHASER.—If a person who purchases fasteners for any purpose so requests either prior to the sale or at the time of sale, the seller shall conspicuously mark the container of the fasteners with the lot number from which such fasteners were taken.".

(g) SECTION 9 AMENDMENT.—Section 9 of the Fastener Quality Act (15 U.S.C. 5408) is amended by adding at the end the following new subsection:

"(d) ENFORCEMENT.—The Secretary may designate officers or employees of the Department of Commerce to conduct investigations pursuant to this Act. In conducting

such investigations, those officers or employees may, to the extent necessary or appropriate to the enforcement of this Act, exercise such authorities as are conferred upon them by other laws of the United States, subject to policies and procedures approved by the Attorney General.".

(h) SECTION 10 AMENDMENTS.—Section 10 of the Fastener Quality Act (15 U.S.C. 5409) is amended—

(1) in subsections (a) and (b), by striking "10 years" and inserting in lieu thereof "5 years"; and

(2) in subsection (b), by striking "any subsequent" and inserting in lieu thereof "the subsequent".

(i) SECTION 13 AMENDMENT.—Section 13 of the Fastener Quality Act (15 U.S.C. 5412) is amended by striking "within 180 days after the date of enactment of this Act".

(j) SECTION 14 REPEAL.—Section 14 of the Fastener Quality Act (15 U.S.C. 5413) is repealed.

SEC. 7. PROHIBITION OF LOBBYING ACTIVITIES.

None of the funds authorized by this Act shall be available for any activity whose purpose is to influence legislation pending before the Congress, provided that this shall not prevent officers or employees of the United States or of its departments or agencies from communicating to Members of Congress on the request of any Member or to Congress, through the proper channels, requests for legislation or appropriations which they deem necessary for the efficient conduct of the public business.

SEC. 8. LIMITATION ON APPROPRIATIONS.

(a) EXCLUSIVE AUTHORIZATION FOR FISCAL YEAR 1996.—Notwithstanding any other provision of law, no sums are authorized to be appropriated for fiscal year 1996 for the activities of the Under Secretary for Technology/Office of Technology Policy or the National Institute of Standards and Technology unless such sums are specifically authorized to be appropriated by this Act.

(b) SUBSEQUENT FISCAL YEARS.—No sums are authorized to be appropriated for any fiscal year after fiscal year 1996 for the activities of the Under Secretary for Technology/Office of Technology Policy or the National Institute of Standards and Technology unless such sums are specifically authorized to be appropriated by Act of Congress with respect to such fiscal year.

SEC. 9. ELIGIBILITY FOR AWARDS.

(a) IN GENERAL.—The Director shall exclude from consideration for awards of financial assistance made by the Under Secretary for Technology/Office of Technology Policy or the National Institute of Standards and Technology after fiscal year 1995 any person who received funds, other than those described in subsection (b), appropriated for a fiscal year after fiscal year 1995, from any Federal funding source for a project that was not subjected to a competitive, merit-based award process. Any exclusion from consideration pursuant to this section shall be effective for a period of 5 years after the person receives such Federal funds.

(b) EXCEPTION.—Subsection (a) shall not apply to awards to persons who are members of a class specified by law for which assistance is awarded to members of the class according to a formula provided by law.

SEC. 10. STANDARDS CONFORMITY.

(a) USE OF STANDARDS.—Section 2(b) of the National Institute of Standards and Technology Act (15 U.S.C. 272(b)) is amended—

(1) by striking ", including comparing standards" and all that follows through "Federal Government";

(2) by redesignating paragraphs (3) through (11) as paragraphs (4) through (12), respectively; and

(3) by inserting after paragraph (2) the following new paragraph:

"(3) to compare standards used in scientific investigations, engineering, manufacturing, commerce, industry, and educational institutions with the standards adopted or recognized by the Federal Government and to coordinate the use by Federal agencies of private sector standards, emphasizing where possible the use of standards developed by private, consensus organizations;".

(b) CONFORMITY ASSESSMENT ACTIVITIES.—Section 2(b) of the National Institute of Standards and Technology Act (15 U.S.C. 272(b)) is amended—

(1) by striking "and" at the end of paragraph (11), as so redesignated by subsection (a)(2) of this section;

(2) by striking the period at the end of paragraph (12), as so redesignated by subsection (a)(2) of this section, and inserting in lieu thereof "; and"; and

(3) by adding at the end the following new paragraph:

"(13) to coordinate Federal, State, local, and private sector standards conformity assessment activities, with the goal of eliminating unnecessary duplication and complexity in the development and promulgation of conformity assessment requirements and measures.".

(c) TRANSMITTAL OF PLAN TO CONGRESS.—The National Institute of Standards and Technology shall, by January 1, 1996, transmit to the Congress a plan for implementing the amendments made by this section.

SEC. 11. FURTHER AUTHORIZATIONS.

Nothing in this Act shall preclude further authorization of appropriations for the Manufacturing Extension Partnerships program under sections 25 and 26 of the National Institute of Standards and Technology Act (15 U.S.C. 278k and 278l) for fiscal year 1996: *Provided*, That authorization allocations adopted by the Conference Committee on House Concurrent Resolution 67, and approved by Congress, allow for such further authorizations.

II. PURPOSE OF THE BILL

The purpose of the bill is to authorize fiscal year 1996 appropriations for the activities of the Under Secretary of Commerce for Technology, and for Scientific and Technical Research and Services and Construction of Research Facilities activities of the National Institute of Standards and Technology, and for other purposes.

III. BACKGROUND AND NEED FOR THE LEGISLATION

Technology is the engine of economic growth and has perhaps never been more important to our nation's well-being. Within the Department of Commerce, both the Technology Administration and the National Institute of Standards and Technology strive to promote technological innovation and our Nation's future competitiveness.

H.R. 1870, the Advanced Technology Advancement Act of 1995, provides an authorization for fiscal year 1996 appropriations for the Technology Administration and NIST's Scientific and Technical Research and Services, as well as Construction of Research Facilities. The authorization levels in H.R. 1870 are guided in principle by H. Con. Res. 67, the Concurrent Resolution on the Budget.

H.R. 1870 also contains recommended language intended to clarify or extend NIST authority to perform certain important administrative functions, including the following: permanently extend the NIST personnel demonstration project; increase the participant cap on post-doctoral fellows; provide authority to donate excess scientific equipment to secondary schools; create authority for a Metro shuttle for NIST employees; and restate existing authorities for NIST activities in standards and conformity assessment to incorporate requirements for NIST to survey existing practices and report to Congress on recommendations for improvements in these activities.

The Committee believes that H.R. 1870 meets the Committee's responsibility to set priorities and reflects a strong commitment to both fundamental scientific research vital to the Nation's future, and to the need to maintain budgetary discipline as exemplified by the directives of H. Con. Res. 67.

IV. Summary of Hearing

On March 23, 1995, the Subcommittee on Technology held hearings on the fiscal year 1996 budget for the Technology Administration (TA) and the National Institute of Standards and Technology (NIST). The following witnesses testified before the subcommittee: Dr. Mary Good, Under Secretary of Technology, Department of Commerce; Dr. Arati Prabhakar, Director of NIST; Ms. Cynthia Beltz, Research Fellow for the American Enterprise Institute; Dr. Edward Hudgins, Director of Regulatory Studies for the Cato Institute; Ms. Laurie Conner, Vice-President of Marketing and Sales for Crystallume; Mr. Dwight Carlson, President of Perceptron, Inc.; Mr. Arthur Caisse, President and CEO of Cubicon, Inc.; Mr. David Gibson, President of X–Ray Optical Systems; Ms. Jan Pounds, Director of Massachusetts Manufacturing, Bay State Skills Corporation; Mr. Leo Reddy, President of the National Coalition for Advanced Manufacturing; and Mr. Larry Rhoades, President of Extrude Hone Corporation.

Dr. Good, Under Secretary of Technology, testified in support of the fiscal year 1996 budget request of $1.36 billion for the TA and the NIST. She stated that federal involvement is crucial to promote private-sector innovation, and noted that the Technology Administration (TA) is the only federal entity supporting the civilian technology base. She also stressed the importance of technology in the ever-increasing global marketplace and the need for all United States businesses to be globally competitive.

Dr. Prabhakar, Director of NIST, also testified in support of the fiscal year 1996 budget request. She stated the reason NIST's budget has grown so rapidly recently is to bridge the widening gap between private and public investment in technology. NIST's role, she explained, is to support investment in long-term, risky, infrastructural technologies, driven by industry, and allocated on a competitive basis.

Ms. Beltz, Research Fellow, American Enterprise Institute, questioned the need for the Advanced Technology Program (ATP) administered by NIST, and stated the view, based upon her own extensive research into the history of comparative government sponsored technology programs, that government is not uniquely qualified to promote competitiveness in high-risk technologies. She observed that today, new sources of venture capital for technology initiatives are surging, casting doubt upon the rationale often expressed for ATP that the program provides an important source of otherwise unavailable capital. Mr. Beltz further expressed doubts about the ability of government to predict market potential for technology innovations, and stressed the point that Congress should more carefully consider alternative priorities for the investment of scarce science dollars in an era of limited financial resources.

Dr. Hudgins, Director of Regulatory Studies, Cato Institute, testified against government funding of the ATP program and noted that the free market is the most efficient allocator of investment resources. Hudgins noted that government officials are not typically equipped with the skills required to perform sophisticated market analyses or invent or develop new products or services, for

if they were, they would more likely be using those skills to their maximum economic value in the private sector. Hudgins noted that the record of government technology activities does not suggest that government employees are better suited than private investors at picking winners and losers, and that the results of various government-directed investment projects do not support the assumption that taxpayer dollars in such ventures are used to maximum benefit. Hudgins labeled the ATP program as exactly "the kind of corporate welfare against which the Clinton administration inveighs."

Ms. Conner, Vice President for Marketing and Sales for Crystallume Corporation, an ATP grant recipient, testified about the importance of government funding for the successful start-up of high-risk technologies, but she stressed that ATP should operate in a manner more closely attuned to a free market environment. Specifically, Conner suggested that industry players should be more integrated into the final decisions as to which projects are to be funded, as opposed to those decisions being left solely to government employees. Conner criticized ATP management for duplicative initiatives and excessive bureaucratic requirements.

Mr. Carison, President of Perceptron, another ATP grant recipient, and a representative of the Auto Body Consortium, testified about the importance of the ATP program as a catalyst in bringing together research universities, innovative technology companies, and major corporations. Through this partnership, he stated, the manufacturing of automobile bodies in the U.S. has been improved to the point where U.S. manufacturers are fully competitive with their Japanese counterparts.

Mr. Caisse, President and CEO of Cubicon, Inc., an ATP recipient, spoke about the need for ATP investments in high-risk technologies which are too risky for venture capitalists to fund, but which are nevertheless crucial to stimulate economic growth.

Mr. Gibson, President of X-Ray Opticals, an ATP recipient, testified regarding the importance of ATP in the success of his small company. He stated that without ATP he would have been without financing for important product prototypes.

Ms. Pounds, Director of the Massachusetts Manufacturing Partnership, Bay State Skills Corporation (an MEP affiliate), testified about the importance of the Manufacturing Extension Partnership Program. She explained the role of MEP, saying the centers provide a wide range of services to small manufacturers, including the teaching of methods for manufacturing products faster and cheaper in order to maximize the return on investment and competitiveness in foreign markets.

Mr. Reddy, President of the National Coalition for Advanced Manufacturing, testified that bringing advanced manufacturing technologies to all industrial bases requires the combined efforts of the private sector and the Federal Government. He affirmed that federal dollars are a powerful way to stimulate other investment.

Mr. Rhoades, President of Extrude Hone Corporation, testified that manufacturing accounts for 20% of U.S. GNP, and 98% of manufacturers are small companies which in the last few decades are the only manufacturing sectors with job growth. Referring to

his own company, he stated that with the help of MEP, Extrude Hone Corp. has doubled their percentage of profit on sales.

V. Committee Actions

SUBCOMMITTEE MARKUP

On June 16, 1995, the Subcommittee on Technology convened to mark up the Subcommittee print of the "American Technology Advancement Act of 1995", providing authorization for appropriations for the Technology Administration (TA) and the National Institute of Standards and Technology (NIST). Of the five amendments offered, three were defeated by roll call votes and two were adopted by voice votes.

1. Mr. Tanner offered an amendment in the nature of a substitute to increase spending for TA/NIST from $342.7 million to $754.2 million, a 120% increase for fiscal year 1996 over the budgetary limit suggested by the House-passed Budget Resolution. The amendment would have included within the bill funding for NIST's Industrial Technology Services (ITS) programs, including ATP, MEP, and the Malcolm Baldrige Quality Award. The amendment was defeated by a roll call vote of 6 yeas to 8 noes.

2. Ms. Johnson offered an en bloc amendment to create a new Title I—General Authorizations and a Title II—Industrial Technology Services. This amendment authorized spending for ATP and MEP programs "such sums as may be appropriated." Mrs. Morella objected to this amendment, noting her intention to pass this language in a separate Subcommittee print. The amendment was defeated by a roll call of 6 yeas to 7 noes.

3. Mr. Brown offered an amendment to the bill directed at the Malcolm Baldrige Quality Award program authorization. The amendment sought to expand the allowable purposes for which program funds could be used, and would have deleted bill language that removes from current law authority for the Secretary to expand the award categories. In addition, the Brown amendment would have removed any numerical limitation on the number of annual awards. The amendment was adopted, as modified by a Morella substitute accepted on a voice vote (see below). Mrs. Morella offered a substitute amendment to the Brown amendment. The Substitute authorized $3.4 million for the Malcolm Baldrige Quality Award Program, and increased the Scientific and Technical Research and Services authorization to a total of $275.579M for fiscal year 1996. The amendment retained the original language of the bill with regard to expansion of award categories and capping the number of annual awards at four. The amendment was adopted by voice vote.

4. Ms. Lofgren offered an amendment to insert a new section authorizing appropriations for the ITS account in the event of a tax cut. Her amendment would have taken effect in the event that the House and Senate budget resolution provided for a tax cut of less than $350 billion. Mrs. Morella objected to this amendment stating that if additional funding becomes available the Committee could address the situation. The amendment was defeated by a roll call vote of 6 yeas to 7 noes.

With a quorum present, Mrs. Morella moved that the subcommittee print, as amended, be ordered reported to the Full Committee for consideration. The motion was adopted by voice vote.

FULL COMMITTEE MARKUP

H.R. 1870, the American Technology Advancement Act of 1995 authorizes funding for fiscal year 1996 for the Department of Commerce's Technology Administration (TA) at $5,066,000, and for the core Scientific and Technical Research and Services (STRS) and the Construction of Research Facilities (CRF) activities for the National Institute of Standards and Technology (NIST) at $275,579,000 and $62,055,000 respectively.

Under this bill, NIST core programs will be authorized at a base level equal to the fiscal year 1995 pre-rescission appropriation, approved in the 103rd Congress, with the authorized funding level, beginning in fiscal year 1996, adjusted in the out years to ensure that real spending power is not reduced by inflation. While many other programs were reduced or frozen by the House budget resolution, the NIST core programs in the STRS account and the CRF account are planned for an increase adjusting for inflation in each succeeding year. NIST's mission is to promote economic growth by working with industry to develop and apply measurements and standards essential to our nation's competitiveness in the global marketplace.

H.R. 1870 was introduced on June 16, 1995 by Subcommittee Chairwoman Connie Morella. The Full Committee held a mark-up of H.R. 1870 on June 28, 1995. The bill was adopted, as amended, by voice vote, and was ordered reported to the full House for consideration. Amendments were offered in the following order:

1. En bloc amendment offered by Mr. Walker. This en bloc amendment addressed concerns of the Fastener Advisory Committee, established as part of the Fastener Quality Act, on heat mill certification, commingling, and minor non-conformance. It also included similar language already adopted by the Committee on other bills regarding prohibition on lobbying, as amended; limitation on authorizations; and anti-earmarking. Adopted by voice vote.

2. Amendment in the Nature of a Substitute offered by Mr. Tanner. The amendment would have increased funding for TA/NIST from $342.7 million to $754.2 million, a 120% increase for fiscal year 1996 over the budgetary limit suggested by the House-passed budget resolution. It would have included within the bill $464,700,000 for FY96 for NIST's Industrial Technology Services (ITS) programs, including the Advanced Technology Program (ATP), the Manufacturing Extension Partnership program (MEP), and the Malcolm Baldrige National Quality Award Program. This amendment more than doubled the cap set by the House-passed budget resolution and the cap used by the Subcommittee on Technology. Defeated—Roll Call Vote—Y–15, N–26.

3. En bloc amendment offered by Ms. Johnson. This created a Title I—General Authorizations and Title II—Industrial Technology Services. It authorized the appropriations of "such sums as may be appropriated" for the ATP and MEP programs under NIST. Objections were raised to this amendment on the grounds that a separate Subcommittee draft was reported out of the Subcommittee

on Technology that already contained this language on June 15, 1995, and was introduced on June 16, 1995 as H.R. 1871, the National Institute of Standards and Technology Industrial Technology Services Authorization Act of 1995. Defeated—Roll Call Vote—Y–19, N–24.

4. Amendment creating a new Section 6—Contingent Authorization offered by Ms. Lofgren. This amendment provided funding for the ITS account under NIST, based on a formula, in the event the House-Senate budget conference resulted in a tax cut of $350 million or less. Withdrawn.

5. Amendment creating a new Section 6—Standards Conformity offered by Ms. Morella. The amendment moves government and industry closer toward the accomplishment of the recommendations presented in the NRC study titled "Standards, Conformity Assessment, and Trade" by formally incorporating, into the organic statute which creates and defines the missions of NIST, a clear mandate to NIST to coordinate among Federal agencies with regard to the development and adoption of standards and, wherever possible, direct agencies toward the adoption of voluntary, consensual standards developed in the private sector. The amendment further directed NIST to take a lead role in coordinating among federal, state, local and private sector entities to eliminate unnecessary duplication and complexity in the development and implementation of conformity assessment criteria and certification requirements. Adopted by voice vote.

6. En bloc amendment offered by Mr. Olver. This en bloc amendment sought to provide $123 million for the MEP program. In doing so, the Construction of Facilities account would have been shifted to help offset the costs of the amendment. It also would have exceeded the budget cap placed upon the Subcommittee. Defeated—Roll Call Vote—Y–10, N–19.

7. Amendment to create a new Section 6—Further Authorization offered by Mr. McHale. The amendment states that nothing in the Act shall preclude further authorization of appropriations for the MEP program provided that authorization allocations adopted by the Conference Committee on H. Con. Res. 67, the budget resolution, and approved by Congress, allow for such further authorizations. Adopted by voice vote.

8. Clarifying amendment relating to the Malcolm Baldrige Award offered by Mr. Roemer. This amendment would have permitted the Malcolm Baldrige awards to be made in categories with respect to which pilot projects have been established before the date of the enactment of H.R. 1870. Withdrawn.

The Committee, as its final action on H.R. 1870, adopted the following summary chart to comply with Committee Rule 21(b), which delineates the specific additions and subtractions to the request assumed in the bill.

AMERICAN TECHNOLOGY ADVANCEMENT ACT OF 1995
FISCAL YEAR 1996 AUTHORIZATION BREAKDOWN
(in millions of dollars)

[redacted]

1. Technology Administration, Department of Commerce

Under Secretary for Technology/Office of Technology Policy

H.Budg	FY95	Request	+/-	% +/	FY96	+/-	% +/-
[redacted]							

2. National Institute of Standards and Technology: Core Funding

Scientific and Technical Research Services

H.Budg	FY95	Request	+/-	% +/-	FY96	+/-	% +/-
272.0	[redacted]				272.179	[redacted]	

	FY95	Request	+/-	% +/-	FY96	+/-	% +/-
E&EE	35.427	45.128	+9.7	+27%	39.628	+4.2	+12%
MANU	19.231	19.565	+0.3	+2%	19.565	+0.3	+2%
CHEM	32.546	39.127	+6.6	+20%	28.127	-4.4	-14%
PHYS	27.461	28.082	+0.6	+2%	28.082	+0.6	+2%
MAT	49.824	54.314	+4.5	+9%	54.314	+4.5	+9%
FIRE	13.215	19.517	+6.3	+48%	13.517	+0.3	+2%
COMP	37.083	46.704	+9.6	+26%	30.704	-6.4	-17%
MATH	7.251	10.964	+3.7	+51%	10.964	+3.7	+51%
TECH	14.938	19.109	+4.2	+28%	19.109	+4.2	+28%
SUPP	27.510	28.169	+0.7	+2%	28.169	+0.7	+2%

3. National Institute of Standards and Technology: Construction

H.Budg	FY95	Request	+/-	% +/-	FY96	+/-	% +/-
67.0	64.639	69.913	+5.3	+8%	65.455	+0.8	+1%

SUBCOMMITTEE ON TECHNOLOGY
HOUSE SCIENCE COMMITTEE

Proposed Budget Breakdown for TA/NIST FY96 Authorization

(in millions of dollars)

[redacted] LEVEL: [redacted]

1. Technology Administration, Department of Commerce

	FY95	Request	+/-	% +/-	FY96	+/-	% +/-
[redacted]					5.066	[redacted]	
[redacted]					LEVEL:	$3.0	[redacted]

Request includes: +0.3 PNGV
+1.4 Core Competencies
+1.9 Israel S&T

FY95 Rescission: -0.7 PNGV

2. National Institute of Standards and Technology: Core Funding

	FY95	Request	+/-	% +/-	FY96	+/-	% +/-
STRS	[redacted]	[redacted]	[redacted]	+17%	272.179	[redacted]	+3%
[redacted]					LEVEL:	$272.0	[redacted]

2

a. **Electronics & Electrical Engineering**

FY95	Request	+/-	% +/-	FY96	+/-	% +/-
[redacted]						

Request includes: +9.0 for *Semiconductor metrology*
FY95 Rescission: -5.5 for *NII (Nat'l Info. Insfrastr'ure)*

b. **Manufacturing Engineering**

FY95	Request	+/-	% +/-	FY96	+/-	% +/-
[redacted]				19.56[redacted]		

c. **Chemical Science and Technology**

FY95	Request	+/-	% +/-	FY96	+/-	% +/-
CHEM [redacted]				28.127 [redacted]		

Request: +2.0 for *Biotechnology;*
+2.0 for *Health Care;* and
+2.0 *Environmental Tech* not authorized
FY95 Rescission: -7.0 rescinded for *ETI (Env. Tech. Initia.)*

d. **Physics**

FY95	Request	+/-	% +/-	FY96	+/-	% +/-
PHYS [redacted]				28.082 [redacted]		

e. **Materials Science & Engineering**

FY95	Request	+/-	% +/-	FY96	+/-	% +/-
MAT [redacted]				54.314 [redacted]		

Request includes: +3.563 for *Adv Matls & Processing*

f. **Building & Fire Research**

	FY95	Request	+/-	% +/-	FY96	+/-	% +/-
[redacted]							

Request includes: +6.0 for Construction (not authorized)

g. **Computer Systems**

	FY95	Request	+/-	% +/-	FY96	+/-	% +/-
[redacted]					30.704	[redacted]	

Request includes: +9.0 for Information Tech (not author.)
FY95 Rescission: -7.0 for *NII*

h. **Applied Mathematics & Scienctific Computing**

	FY95	Request	+/-	% +/-	FY96	+/-	% +/-
MATH	[redacted]				10.964	[redacted]	

i. **Technical Assistance**

	FY95	Request	+/-	% +/-	FY96	+/-	% +/-
TECH	[redacted]				19.109	[redacted]	

j. **Research Support**

	FY95	Request	+/-	% +/-	FY96	+/-	% +/-
SUPP	[redacted]				28.169	[redacted]	

3. National Institute of Standards and Technology: Construction

	FY95	Request	+/-	% +/-	FY96	+/-	% +/-
CONS	[redacted]				65.455	[redacted]	
	[redacted] RESOLUTION LEVEL:				$67.0	[redacted]	

VI. Summary of Authorizations and Major Provisions of the Bill

TECHNOLOGY ADMINISTRATION—OFFICE OF THE UNDER SECRETARY AND OFFICE OF TECHNOLOGY POLICY

In February 1995, the President transmitted to Congress a fiscal year 1996 request of $13.906 million for the Technology Administration, an increase of $3.9 million—or 39 percent—over the fiscal year 1995 estimate of $9.992 million. The Committee recommends an authorization level of $5.066 million for fiscal year 1996, a decrease of $4.9 million—or 49 percent—from the fiscal year 1995 estimate. The House-passed Concurrent Resolution for fiscal year 1996 (H. Con. Res. 67) recommended $3.0 million for the Technology Administration.

Scientific and technical research and services

For the National Institute of Standards and Technology's Scientific and Technical Research and Services, the President requested $310.679 million for Fiscalyear 1996, an increase of $46.2 million—or 17 percent—over the fiscal year 1995 estimate of $264.486 million. The Committee recommends an authorization level of $275.579 million for Fiscal year 1996, an increase of $11.1 million—or 4 percent—above the Fiscalyear 1995 estimate. The House-passed Concurrent Resolution for Fiscalyear 1996 (H.Con.Res. 67) recommended $272.0 million for the NIST STRS account.

Construction of research facilities

For the National Institute of Standards and Technology's Construction of Research Facilities, the President requested $69.913 million for fiscal year 1996, an increase of $5.3 million—or 8 percent—over the fiscal year 1995 estimate of $64.639 million. The Committee recommends an authorization level of $62.055 million for fiscal year 1996, a decrease of $2.6 million—or 1 percent—from the fiscal year 1995 estimate. The House-passed Concurrent Resolution for fiscal year 1996 (H.Con.Res. 67) recommended $67.0 million for the NIST Construction of Research Facilities.

The following table provides a summary of the amounts requested (using the President's February 1995 request) and that which is authorized for appropriation in the bill (in the column labeled "FY96"). Also included are current year estimates (in the column labeled "FY95") and the amounts increased, or proposed to be increased, the percentage change, and the amounts established in the House-passed Concurrent Resolution on the Budget for fiscal year 1996, H.Con.Res. 67 (in the column labeled "H.Budg"). The figures are listed in millions of dollars.

1. *Technology Administration, Department of Commerce*

(in millions of dollars)
Under Secretary for Technology/Office of Technology Policy

H.Budg	FY95	Request	+/-	% +/	FY96	+/-	% +/-
[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]

2. *National Institute of Standards and Technology: Core Funding*

Scientific and Technical Research and Services

H.Budg	FY95	Request	+/-	% +/-	FY96	+/-	% +/-
[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]

---

a. **Electronics & Electrical Engineering**

FY95	Request	+/-	% +/-	FY96	+/-	% +/-
[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]

b. **Manufacturing Engineering**

FY95	Request	+/-	% +/-	FY96	+/-	% +/-
[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]

c. **Chemical Science and Technology**

FY95	Request	+/-	% +/-	FY96	+/-	% +/-
[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]

d. **Physics**

FY95	Request	+/-	% +/-	FY96	+/-	% +/-
[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]

e. **Materials Science & Engineering**

FY95	Request	+/-	% +/-	FY96	+/-	% +/-
[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]

f. **Building & Fire Research**

FY95	Request	+/-	% +/-	FY96	+/-	% +/-
[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]

g. **Computer Systems**

FY95	Request	+/-	% +/-	FY96	+/-	% +/-
[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]

h. **Applied Mathematics & Scientific Computing**

FY95	Request	+/-	% +/-	FY96	+/-	% +/-
[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]

i. **Technical Assistance**

FY95	Request	+/-	% +/-	FY96	+/-	% +/-
[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]

j. **Research Support**

FY95	Request	+/-	% +/-	FY96	+/-	% +/-
[redacted]						

k. **Malcolm Baldrige National Quality Program**

FY95	Request	+/-	% +/-	FY96	+/-	% +/-
[redacted]						

3. ***National Institute of Standards and Technology: Construction***

H.Budg	FY95	Request	+/-	% +/-	FY96	+/-	% +/-
[redacted]							

The major provisions of the bill accomplish the following objectives:

Authorization of appropriations for the Technology Administration, Scientific Technical Research Services of the National Institute of Standards and Technology, and Construction of Research Facilities of the National Institute of Standards and Technology;

Expansion of the NIST Visiting Committee from 9 members to 15, with the requirement that 10 (increased from 5) be from U.S. industry;

Provision of authority for NIST to have a shuttle bus service between the Shady Grove Metro station and the NIST Gaithersburg campus for employees to use to commute to work;

An increase in the cap on postdoctoral positions from 40 to 60 positions;

Clarification of NIST authority to transfer excess scientific equipment by gift, loan, or lease to public and private schools and nonprofit institutions;

Increasing the maximum number of annual awards which may be made under the Malcolm Baldrige Quality Award Program;

Making permanent the NIST Personnel Demonstration Project;

Amending the Fastener Quality Act, as recommended by the industry-government Fastener Public Law Task Force, regarding heat mill certification, commingling, and minor nonconformance; and

Restating and clarifying existing authority in the law for NIST activities in coordinating standards and conformity assessment activities in all levels of government.

VII. Section-by-Section Analysis

SECTION 1. SHORT TITLE

Cites the Act as the "American Technology Advancement Act of 1995."

SECTION 2. AUTHORIZATION OF APPROPRIATIONS FOR FISCALYEAR 1996

Subsection 2(a) authorizes $5,066,000 for the Under Secretary for Technology for Fiscalyear 1996.

Subsection 2(b) provides for authorizations for the National Institute of Standards and Technology. Subsection (2)(b)(1) authorizes $275,579,000 for the National Institute of Standards and Technology Scientific and Technical Research and Services for fiscal year 1996 and apportions the authorized total among the following 11 accounts: (1) Electronics and Electrical Engineering; (2) Manufacturing Engineering; (3) Chemical Science and Technology; (4) Physics; (5) Material Science and Engineering; (6) Building and Fire Research; (7) Computer Systems; (8) Applied Mathematics and Scientific Computing; (9) Technical Assistance; (10) Research Support; and (11) the Malcolm Baldrige National Quality Program. Subsection 2(b)(2) authorizes $62,055,000 for the National Institute of Standards and Technology Construction of Research Facilities.

SECTION 3. NATIONAL INSTITUTE OF STANDARDS AND TECHNOLOGY ACT AMENDMENTS

Subsection 1 expands the NIST Visiting Committee from 9 members to 15, with the requirement that 10 (increased from 5) shall be from U.S. industry. At its present size, the Committee has been challenged to provide the broad oversight and advice needed to best inform NIST programs.

Subsection 2 provides authority for NIST to have a shuttle bus service between the Shady Grove Metro station and the NIST Gaithersburg campus for employees to use to commute to work.

Subsection 3 Increases the cap of postdoctoral positions from 40 to 60 positions. The Postdoctoral Program allows NIST to keep abreast of the latest developments in academic research while providing a continuing infusion of the nation's outstanding scientists, mathematicians, and engineers into the NIST staff both on a temporary basis and by selective recruiting for career appointments.

SECTION 4. STEVENSON-WYDLER TECHNOLOGY INNOVATION ACT OF 1980 AMENDMENTS

Subsection 1 clarifies that excess scientific equipment can be given, loaned, or leased to public and private schools and nonprofit institutions.

Subsection 2 allows for the recognition of more than two, but no more than four, deserving companies meeting the high standards for total quality management in a category of activity recognized under the National Baldrige Quality Awards. It would not, however, require additional awards for every category if there are no deserving applicants. The subsection also deletes the authority of the Secretary of Commerce to expand the award categories.

SECTION 5. PERSONNEL

Section 5 makes permanent the NIST Personnel Demonstration Project. The Project has helped NIST recruit and retain the "best and the brightest" scientists.

SECTION 6. FASTENER QUALITY ACT AMENDMENTS

Section 6 amends the Fastener Quality Act, as recommended by the industry-government Fastener Public Law Task Force, regarding heat mill certification, commingling, and minor nonconformance. The Fastener Advisory Committee reported that, without these recommended changes, the burden of costs would be close to $1 billion on the fastener industry.

SECTION 7. PROHIBITION OF LOBBYING ACTIVITIES

Section 7 states that none of the funds authorized by this Act shall be available for any activity whose purpose is to influence legislation pending before the Congress.

SECTION 8. LIMITATION ON APPROPRIATIONS

Subsection 8(a) specifies that this Act is the only authorization for all programs and activities authorized by this Act. Subsection 8(b) specifies that no funds are authorized to carry out the pro-

grams and activities authorized by the Act after fiscal year 1996 unless they are specifically authorized by a future Act of Congress.

SECTION 9. ELIGIBILITY FOR AWARDS

Subsection 9(a) requires the Secretary to exclude from consideration for awards for financial assistance made by the Department after fiscal year 1995 any person who received funds, other than those described in subsection 9(b), appropriated for a fiscal year after fiscal year 1995, from any Federal funding source for a project that was not subjected to a competitive, merit-based award process. Any exclusion from consideration pursuant to this section shall be effective for a period of five years after the person receives such federal funds.

Subsection 9(b) states that subsection 9(a) shall not apply to persons who are members of a class specified by law for which assistance is awarded to members of the class according to a formula provided by law.

SECTION 10. STANDARDS CONFORMITY

Section 10 restates existing authorities for NIST activities in standards and conformity assessment to incorporate requirements for NIST to coordinate among federal agencies, and survey existing state and federal practices and report to Congress on recommendations for improvements in these activities.

SECTION 11. FURTHER AUTHORIZATIONS

Section 11 states that the Act does not preclude further authorizations for the Manufacturing Extension Partnerships program provided that the budget resolution allow for such authorizations.

VIII. COMMITTEE VIEWS

SECTION 1. SHORT TITLE.

SECTION 2. AUTHORIZATION OF APPROPRIATIONS FOR FISCAL YEAR 1996

The American Technology Advancement Act of 1995 authorizes appropriations for the following activity areas within the purview of the National Institute for Standards and Technology: (a) the Office of the Under Secretary for Technology/Office of Technology Policy ($5.066M); (b) Scientific and Technical Research and Services ($275.579M); and (c) construction of research facilities ($62.055M). Overall, authorized appropriations for these activity areas total $342.7 million. Comparatively, House Concurrent Resolution 67 provided for the fiscal year 1996 budget allowed $342.0 million for the total NIST program.

Office of the under secretary for technology

The President requested an authorization level of $13.906 million for the Office of the Under Secretary for Technology for fiscal year 1996, an increase of $3.9 million—39%—over the fiscal year 1995 appropriation of $9.992 million. In contrast, H. Con. Res. 67, the Fiscal Year 1996 Concurrent Budget Resolution, recommended $3.0 million for the Technology Administration, essentially reflecting the

original, limited policy coordination role originally envisioned for the Office. The budget of the Office of the Under Secretary has been dramatically expanded during the course of the Clinton Administration to accommodate policy activities in areas which will not be funded, or not funded as aggressively as in the past fiscal year, under the budget adopted by the 104th Congress for fiscal year 1996. Among those activity areas which will be eliminated, or reduced, is the Partnership for a New Generation of Vehicle.

In consideration of the new budgetary and program environment, the Committee approved an authorization of $5.066 million in appropriations for the Office of the Under Secretary for Technology/ Office of Technology Policy for fiscal year 1996, a decrease of $4.9 million—or 49%—from the fiscal year 1995 appropriation.

Scientific and technical research and services

The Committee approved an authorization of $275.579 million in appropriations in fiscal year 1996 for Scientific and Technical Research and Services, representing an increase of $11.1 million—or 4%—over fiscal year 1995. The President requested $310.679 million for fiscal year 1996, an increase of $46.2 million—or 17%—over the fiscal year 1995 appropriation of $264.486 million. In contrast, H. Con. Res. 67 recommended $272.0 million for the NIST STRS account.

Included within the STRS account, the Committee approved an authorization of $3.4 million (identical to the fiscal year 1995 appropriation) for continuation of the Malcolm Baldrige National Quality Program, originally provided for in Section 17 of the Stevenson-Wydler Technology Innovation Act of 1980 [15 U.S.C. 3711(a)]. Previously, the Baldrige program authorization was included in the Industrial Technology Services budget of NIST. The reallocation of the authorization to the STRS account reflects the high value that the Committee places upon the program and its determination that the program should be adequately funded. However, the Subcommittee on Technology has been requested by the Chairman to conduct hearings during the remainder of FY 1995 on the operation of the Baldrige program, with a view toward reviewing efficiency of program administration, appropriateness of the award categories and applicant review methodologies, and the feasibility of expanding the level of private sector contribution to the program support activities.

Overall, the President's requested authorizations were adopted in six of ten program areas within STRS which the Committee agreed were appropriate to allow for continuing strong support for core, "mission related" activities of the NIST labs. These areas were: (1) Manufacturing Engineering ($19.565 million, increase of 2%); (2) Physics ($28.082 million, up 2%); (3) Materials Science and Engineering ($54.314 million, up 9%); (4) Applied Mathematics and Scientific Computing ($10.964 million, up 51%); (5) Technical Assistance ($19.109 million, up 28%); and (6) Research Support ($28.169 million, up 2%). The Committee approved all program activities proposed in these areas.

Reductions from Presidential request levels

In four other activities, the Committee authorized appropriations at less than the President's request: Electronics and Electrical Engineering; Chemical Science and Technology; Building and Fire Research; and Computer Systems. However, in two of these activities—Electronics and Electrical Engineering ($39.628 million) and Building and Fire Research ($13.517 million)—the fiscal year 1996 appropriations authorized are up from the fiscal year 1995 appropriated levels by 12% and 2%, respectively. In only two areas did the Committee substantially reduce the program activity authorizations from fiscal year 1995 appropriation levels—Chemical Science and Technology ($28.127 million, down 14%) and Computer Systems ($30.704 million, down 17%).

The adjustments made in these four areas reflect Committee assessments that certain existing, or proposed, program activities are, or would have been, insufficiently related to the core mission of NIST to justify the fiscal year 1996 requested funding. Those program activities fall into four broad categories: information infrastructure, environmental technologies, fire research, and health care.

Information infrastructure

Although no funds were specifically appropriated in fiscal year 1995 for this directed program, NIST distributed $12.5 million of its fiscal year 1995 funds to information infrastructure as follows: $5.5 million for Semiconductor Metrology under the Electronics and Electrical Engineering account and $7.0 million for 'Information Technology' under the Computer Systems account. The fiscal year 1996 request contains an additional $9.0 million increase in the Computer Systems account.

The semiconductor metrology activities are consistent with NIST's mission of developing sophisticated processing technologies and manufacturing standards. The Committee has approved a $9.0 million increase in fiscal year 1996 for these activities.

However, most of the information infrastructure projects fall outside the traditional NIST mission, and collectively are the development of information industry technologies or commercial applications. As stated in NIST's fiscal year 1995 budget justification, "high-performance computing and networking are generic technologies * * *" While the Committee recognizes the critical importance of high-performance computing, the Committee does not believe the government should duplicate industry efforts already underway. The proposed activity is not unique, as most of the work involves hardware, software, and data interchange efforts that are the heart and soul of a well-developed, aggressive and globally competitive industry, and for which the private sector's capabilities and resources are more than adequate to the task. These requests were not factored into the Committee's authorization levels.

Environmental technologies

In fiscal year 1995, $7.0 million was appropriated for environmental technology under the Chemical Science and Technology account, with $2.05 million as an add-on. The fiscal year 1996 request contains an additional $2.0 million increase.

The Committee believes that efficiencies in manufacturing are driven by market forces and competition and do not necessarily require government involvement and subsidies. Waste elimination is recognized today as a key component of efficient resource management and companies are driven by competitive forces to identify and implement cost-efficient waste management strategies.

Major initiatives involving environmental management are ongoing at other agencies such as the Department of Energy, National Science Foundation, Environmental Protection Agency, and the National Oceanic and Atmospheric Administration, among others. For example, the fiscal year 1996 President's request for the Environmental Technology Initiative at EPA was $119.8 million—$51.9 million more than was appropriated in fiscal year 1995. The program request is duplicative of work that is ongoing at these agencies, which have substantially greater expertise than NIST in environmental technologies. These requests were not factored into the Committee's authorization levels.

Fire research

The fiscal year 1996 President's request contains $6.0 million for a new start under the Building and Fire Research account, in the areas of automated construction processes and advanced facilities management.

The Committee believes that the construction industry is a playing field for individual companies, not the Federal Government. In today's diverse and fragmented marketplace, opportunities are abound for construction companies who seize the power of innovation and transform it into new technologies, products, and services. This mature industry is already driven by powerful competitive forces to produce innovations in the areas of construction techniques, building automation, and computer assisted design. In the new budgetary environment facing the Congress, scarce dollars can better be used on other, more important basic research needs. These requests were not factored into the Committee's authorization levels.

Health care

The fiscal year 1996 request contained $2.0 million for a new start for health care under the Chemical Science and Technology account.

The proposed, non-traditional NIST activities are duplicative of ongoing, major government initiatives at other agencies such as the National Institutes of Health and the National Science Foundation.

The United States leads the world in medical research, and boundless opportunities for innovation exist in the health care sector. Creative companies will seize these opportunities and develop new health care technologies and bring them to the market—creating new businesses and new jobs. Developed and marketed by individual companies, these preventive, diagnostic and treatment technologies will foster the growth and wealth of our economy and improve the quality of life in the United States and throughout the world. NIST expertise in these areas is less mature and government research efforts are better placed in other centers of excel-

lence within government. These requests were not factored into the Committee's authorization levels.

SECTION 3. NATIONAL INSTITUTE OF STANDARDS AND TECHNOLOGY ACT AMENDMENTS

Expansion of the Visiting Committee Membership

The Committee supports the request of the National Institute of Standards and Technology to expand the NIST Visiting Committee on Advanced Technology (VCAT) from nine members to fifteen members. This expansion will ensure that the VCAT's expertise can match the breadth and diversity of NIST programs. Assessments of NIST laboratory programs require a panel with broad technical expertise, since the labs have eight major operating units specializing in different fields of science and technology, and focusing on different industry sectors.

In addition to this expertise, an ideal panel would include a diverse membership representing industry, academe, and government laboratories. At its present size of nine members, all busy top-level technology experts, the VCAT is challenged to provide the broad oversight and advice needed to best inform NIST's programs.

The Committee supports the National Institute of Standards and Technology's request for authority to provide shuttle bus service between the Shady Grove Metro station in Gaithersburg and the NIST Gaithersburg campus for employees to use to commute to work. This authority would not require any additional funding and would, in fact, provide some cost savings for the Federal government.

Federal agencies are currently authorized to provide cash subsidies to their employees to encourage them to use mass transit. This subsidy costs approximately $65 per employee per month. NIST does not currently provide subsidies and will not provide subsidies if given the requested authority. NIST proposes to encourage the use of mass transit by allowing employees to use the existing shuttle service.

Authority for NIST Metro Shuttle

Currently, NIST provides employees with a limited shuttle service between the NIST Gaithersburg campus and the Shady Grove station for use only by visitors and official guests, and by employees traveling into Washington, D. C. on official business. This requested authority would allow all NIST employees to use the NIST shuttle to get to and from the Shady Grove Metro station for their daily commute between work and home.

Since NIST is several miles from the Shady Grove Metro Station and because the available commercial bus transportation route from Shady Grove to NIST is circuitous and extremely time consuming, most NIST employees do not take advantage of the mass transit. However, NIST employees have indicated that they would be willing to take mass transit if convenient direct bus transportation from the Metro station were made available.

In addition, the Committee understands that the National Capital Planning Commission and the Maryland National Park and Planning Commission are also strongly urging NIST to develop a

Transportation Management Plan which would include encouraging car pooling and bicycling, as well as a plan to encourage the use of mass transportation.

Post-Doctoral Fellows Program

The Postdoctoral Fellowship Program provides NIST with an opportunity to keep abreast of the latest developments in academic research. Additionally, the Postdoctoral Fellowship Program provides a continuing infusion of the nation's outstanding scientists, mathematicians, and engineers into the NIST staff both on a temporary basis and by selective recruiting for career appointments.

The number of Postdoctoral Fellowships at NIST was last increased to 40 in Public Law 99-574, the National Bureau of Standards Authorization Act of 1987. An increase in the program to 60 positions would permit NIST to enhance some of its programs.

For recent doctoral graduates, the program provides an opportunity for concentrated research in association with NIST staff, often as a climax to formal career preparation. In return, NIST laboratories receive a stimulus to their industry- oriented programs from the presence of bright, highly motivated, recent doctoral graduates with records of research productivity. New ideas, techniques, and approaches to problems contribute to the overall research climate of the laboratories.

The NIST Postdoctoral Fellowships Program provides two-year fellowship appointments for outstanding scientists and engineers chosen through a national competition administered by the National Research Council and the National Academy of Sciences.

SECTION 4. STEVENSON-WYDLER TECHNOLOGY INNOVATION ACT OF 1980 AMENDMENTS

Donation of Equipment to Secondary Schools

The Committee intends to clarify NIST's authority to give excess scientific equipment to secondary schools. Subsection 1 amends a provision of the American Technology Preeminence Act of 1992 (PL 102-245) clarifying that excess scientific equipment can be given, loaned, or leased to public and private schools and nonprofit institutions without regard to federal property disposal laws. The original amendment in the American Technology Preeminence Act was intended to allow federal laboratories to donate their excess scientific equipment directly to public and private primary and secondary schools. It was intended to eliminate much of the paperwork burden which seems to hinder federal labs from donating such equipment to primary and secondary schools. The cumbersome paperwork requirements also discourage the public and private schools from attempting to obtain excess equipment. Subsection 1 will further clarify the intent of the original amendment and eliminate problems with implementation.

Modifications to the Malcolm Baldrige National Quality Program

The Committee also recognizes the importance of the Malcolm Baldrige National Quality Award Program, and supports raising the limit of awards from two to four per year per category. This modification would allow for the recognition of more than two de-

serving companies meeting the high standards for total quality management in any particular category.

The Committee would not require awards for every category if there are no deserving applicants, but would replace the current restrictions of two awards per category. The Baldrige Awards Board of Overseers has recommended removing the current restrictions.

Although the Act provides for budgetary authorization for the continuation of the Baldrige Award Test Pilot Programs for possible expansion into health care and education, it repeals Section 17(c)(2) of the Stevenson-Wydler Act. That section permits the Secretary of Commerce, with indirect Congressional authorization, to expand the number of categories of the Baldrige Awards. As a result, the repeal of this section requires the enactment of Congressional legislation for the expansion of the three current award categories. The Committee believes there must be express Congressional approval before the number of award categories are increased.

SECTION 5. PERSONNEL

The Committee recognizes the success of the NIST Personnel Demonstration Project and its dramatic effect on personnel management and administration at NIST. Feedback from managers and employees and evaluation reports from OPM contractors have shown that the project is meeting its objectives to recruit and retain quality staff, make compensation more competitive, link pay to performance, simplify position classification, streamline processing, improve the staffing process, get new hires aboard faster, and increase the manager's role and accountability in personnel management. As a result, NIST is now competing more effectively in the labor market. New hires have been made under the system that could not have been made previously. Pay-for-performance has improved NIST's ability to keep its best personnel.

The NIST Authorization Act for fiscal year 1987 established this NIST project to demonstrate an innovative new personnel management system with hiring, classification, compensation, and performance methods more like those of the private sector. That legislation requires NIST to work with OPM under the provisions of 5 U.S.C. 4703, which authorizes demonstration projects for a duration of 5 years, but provides OPM authority to extend a project. Under this authority, OPM has extended the original completion date of the project from December 31, 1992 to September 30, 1995.

SECTION 6. FASTENER QUALITY ACT AMENDMENTS

The Committee has adopted recommendations made by the Fastener Advisory Committee, amending the Fastener Quality Act in Title 15 U.S.C. et seq. The Fastener Advisory Committee, created by Congress, has determined that the Act will have a detrimental impact on business. The Fastener Advisory Committee reported that without their recommended changes, the burden of costs on the fastener industry would be close to $1 billion.

Section 6 addresses the concerns of the Fastener Advisory Committee regarding heat mill certification, commingling, and minor nonconformance. Working with this Congress and NIST, the Fastener Public Law Task Force recommended certain changes to the

Act. The Task Force comprised of membership from the manufacturing, importing, and distribution sectors, has worked to improve the law, while maintaining safety and quality. The Task Force represents 85 percent of all the companies involved in the manufacture, distribution, and importation of fasteners and their suppliers in the United States. Combined the Task Force represents over 100,000 employees in all 50 states.

SECTION 7. PROHIBITION OF LOBBYING ACTIVITIES

The Committee opposes the use of any authorized funds for lobbying.

SECTION 8. LIMITATION ON APPROPRIATION

The Committee intends this Act to be the sole authorization for the Technology Administration, as well as the Scientific Research and Technical Services and the Construction of Research Facilities at the National Institute of Standards and Technology. None of the authorized programs in the Act are authorized after September 30, 1996.

SECTION 9. ELIGIBILITY FOR AWARDS

The Committee supports only Federal research grants awarded through a competitive merit-based process.

SECTION 10. STANDARDS CONFORMITY

The Committee has adopted some of the recommendations made by the National Research Council in its March, 1995 report entitled, "Standards, Conformity Assessment, and Trade in the 21st Century." The NRC report made certain recommendations regarding the functions of NIST, with the objective of enabling NIST to function more effectively in the effort to facilitate the adoption, within government, of voluntary, private sector consensual standards wherever possible.

The report recommended that Congress restate NIST's statutory statement of mission in order to strengthen NIST in the effort to implement a Government-wide policy of phasing out the use of federally developed standards wherever possible in favor of standards developed by private sector, consensual standards organizations in the interests of eliminating unnecessary duplication of effort and conflict with widely adopted industry practices.

The bill language makes clear that standards and conformity assessment activities are to be among the principal concerns of NIST responsibilities. The bill requires NIST to develop a strategic plan to evaluate state and local criteria for accrediting testing laboratories and product certifiers and take the lead in efforts to build a network of mutual recognition agreements regarding conformity assessment among federal, state, and local authorities, in the interest of eliminating unnecessary duplication and burden on industry. The collective impact of these changes is to grant NIST a clear statutory mandate to act as the lead U.S. agency for ensuring federal use of standards developed by private consensus organizations to meet regulatory and procurement needs, and to guide the states

toward a national, rationalized system of conformity assessment and certification.

NIST is required to report to Congress on their progress and the feasibility of such actions by January 1, 1996.

SECTION 11. FURTHER AUTHORIZATIONS

The Committee will not preclude further authorizations of appropriations for the Manufacturing Extension Partnerships, if authorization allocations are adopted by the Conference Committee on H.Con.Res. 67, and approved by the Congress.

IX. PROGRAM CRITERIA

The Committee states that the activities authorized by this Act are consistent with the six criteria below and intends they be implemented accordingly.

1. Federal R&D should be focused on long-term, non-commercial research and development, with potential for great scientific discovery, leaving economic feasibility and commercialization to the marketplace.
2. Federal funding of R&D on specific processes and technologies should not be carried out beyond demonstration of technical feasibility, requiring significant additional investment for production.
3. Revolutionary new ideas and pioneering capabilities that make possible the "impossible" (that which has never been done before) should be pursued.
4. The Federal government should avoid funding research in areas that are receiving, or should be reasonably expected to obtain funding from the private sector such as evolutionary advances or incremental improvements.
5. Government-owned laboratories should confine their in-house research to areas in which their technical expertise and facilities have no peer and should contract out other research to industry, private research foundations, and universities.
6. All R&D programs should be relevant and tightly focused to the agency's stated mission; those that are not should be terminated. All research programs should disseminate the results of the programs to potential users.

X. CONGRESSIONAL BUDGET OFFICE ANALYSIS AND COST ESTIMATES

Clause 2(l)(3)(c) of rule XI requires each committee report to include a cost estimate prepared by the Director of the Congressional Budget Office, pursuant to section 403 of the Congressional Budget Act of 1974, if the cost estimate is timely submitted. The following is the Congressional Budget Office estimate:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, July 19, 1995.

Hon. ROBERT S. WALKER,
Chairman, Committee on Science, U.S. House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 1870, the American Technology Advancement Act of 1995.

Enactment of H.R. 1870 would not affect direct spending or receipts. Therefore, pay-as-you-go procedures would not apply to the bill.

If you wish further details on this estimate, we will be pleased to provide them.

Sincerely,

JUNE E. O'NEILL,
Director.

Enclosure.

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

1. Bill number: H.R. 1870.

2. Bill title: American Technology Advancement Act of 1995.

3. Bill status: As ordered reported by the House Committee on Science on June 28, 1995.

4. Bill purpose: H.R. 1870 would authorize appropriations for 1996 for the Under Secretary for Technology of the Department of Commerce and for various programs within the National Institute of Standards and Technology (NIST). The bill also would amend provisions of the Fasteners Quality Act regarding laboratory accreditation, commingling of fasteners, and enforcement of the act.

5. Estimated cost to the Federal Government: Assuming appropriation of the authorized amounts, CBO estimates that enacting H.R. 1870 would result in costs to the federal government of about $343 million over the 1996–2000 period, primarily for NIST expenditures. Other provisions of the bill would have no additional budgetary impact. The following table summarizes the estimated budgetary effects of H.R. 1870.

[By fiscal year, in millions of dollars]

	1995	1996	1997	1998	1999	2000
Projected Spending Under Current Law:						
Budget Authority[1]	334	0	0	0	0	0
Estimated Outlays	287	165	95	44	18	0
Proposed Changes:						
Authorization Level	0	343	0	0	0	0
Estimated Outlays	0	218	67	30	16	12
Projected Spending Under H.R. 1870:						
Authorization Level[1]	334	343	0	0	0	0
Estimated Outlays	287	383	162	74	34	12

[1] The 1995 level is the amount appropriated for that year.

The costs of this bill fall within budget function 370. Estimated outlays are based on historical spending rates for the authorized activities.

6. Pay-as-you-go considerations: None.

7. Estimated cost to State and local governments: None.
8. Estimate Comparison: None.
9. Previous CBO estimate: None.
10. Estimate prepared by: Rachel Forward.
11. Estimate approved by: Robert A. Sunshine for Paul N. Van de Water, Assistant Director for Budget Analysis.

XI. Effect of Legislation on Inflation

In accordance with rule XI, clause 2(l)(4) of the Rules of the House of Representatives, this legislation Is assumed to have no inflationary effect on prices and costs in the operation of the national economy.

XII. Oversight Findings and Recommendations

Clause 2(l)(3)(A) of rule XI requires each committee report to contain oversight findings and recommendations required pursuant to clause 2(b)(1) of rule X. The Committee has no oversight findings.

XIII. Oversight Findings and Recommendations by the Committee on Government Reform and Oversight

Clause 2(l)(3)(D) of rule XI requires each committee report to contain a summary of the oversight findings and recommendations made by the Government Reform and Oversight Committee pursuant to clause 4(c)(2) of rule X, whenever such findings have been timely submitted. The Committee on Science has received no such findings or recommendations from the Committee on Government Reform and Oversight.

XIV. Changes in Existing Law Made by the Bill, as Reported

In compliance with clause 3 of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

NATIONAL INSTITUTE OF STANDARDS AND TECHNOLOGY ACT

ESTABLISHMENT, FUNCTIONS, AND ACTIVITIES

SEC. 2. (a) * * *

(b) The Secretary of Commerce (hereafter in this Act referred to as the "Secretary") acting through the Director of the Institute (hereafter in this Act referred to as the "Director") and, if appropriate, through other officials, is authorized to take all actions necessary and appropriate to accomplish the purposes of this Act, including the following functions of the Institute—

(1) to assist industry in the development of technology and procedures needed to improve quality, to modernize manufacturing processes, to ensure product reliability, manufacturability, functionality, and cost-effectiveness, and to facilitate the more rapid commercialization, especially by

small- and medium-sized companies throughout the United States, of products based on new scientific discoveries in fields such as automation, electronics, advanced materials, biotechnology, and optical technologies;

(2) to develop, maintain, and retain custody of the national standards of measurement, and provide the means and methods for making measurements consistent with those standards[, including comparing standards used in scientific investigations, engineering, manufacturing, commerce, industry, and educational institutions with the standards adopted or recognized by the Federal Government];

(3) to compare standards used in scientific investigations, engineering, manufacturing, commerce, industry, and educational institutions with the standards adopted or recognized by the Federal Government and to coordinate the use by Federal agencies of private sector standards, emphasizing where possible the use of standards developed by private, consensus organizations;

[(3)] *(4)* to enter into contracts, including cooperative research and development arrangements, in furtherance of the purposes of this Act;

[(4)] *(5)* to provide United States industry, Government, and educational institutions with a national clearinghouse of current information, techniques, and advice for the achievement of higher quality and productivity based on current domestic and international scientific and technical development;

[(5)] *(6)* to assist industry in the development of measurements, measurement methods, and basic measurement technology;

[(6)] *(7)* to determine, compile, evaluate, and disseminate physical constants and the properties and performance of conventional and advanced materials when they are important to science, engineering, manufacturing, education, commerce, and industry and are not available with sufficient accuracy elsewhere;

[(7)] *(8)* to develop a fundamental basis and methods for testing materials, mechanisms, structures, equipment, and systems, including those used by the Federal Government;

[(8)] *(9)* to assure the compatibility of United States national measurement standards with those of other nations;

[(9)] *(10)* to cooperate with other departments and agencies of the Federal Government, with industry, with State and local governments, with the governments of other nations and international organizations, and with private organizations in establishing standard practices, codes, specifications, and voluntary consensus standards;

[(10)] *(11)* to advise government and industry on scientific and technical problems; [and]

[(11)] *(12)* to invent, develop, and (when appropriate) promote transfer to the private sector of measurement devices to serve special national needs[.]*; and*

(13) to coordinate Federal, State, local, and private sector standards conformity assessment activities, with the goal of eliminating unnecessary duplication and complexity in the de-

velopment and promulgation of conformity assessment requirements and measures.

* * * * * * *

VISITING COMMITTEE ON ADVANCED TECHNOLOGY

SEC. 10. (a) There is established within the Institute a Visiting Committee on Advanced Technology (hereafter in this Act referred to as the "Committee"). The Committee shall consist of [nine] *15* members appointed by the Director, at least [five] *10* of whom shall be from United States industry. The Director shall appoint as original members of the Committee any final members of the National Bureau of Standards Visiting Committee who wish to serve in such capacity. In addition to any powers and functions otherwise granted to it by this Act, the Committee shall review and make recommendations regarding general policy for the Institute, its organization, its budget, and its programs within the framework of applicable national policies as set forth by the President and the Congress.

* * * * * * *

SEC. 15. In the performance of the functions of the Institute the Secretary of Commerce is authorized to undertake the following activities: (a) The purchase, repair, and cleaning of uniforms for guards; (b) the care, maintenance, protection, repair, and alteration of Institute buildings and other plant facilities, equipment, and property; (c) the rental of field sites and laboratory, office, and warehouse space; (d) the purchase of reprints from technical journals or other periodicals and the payment of page charges for the publication of research papers and reports in such journals; (e) the furnishing of food and shelter without repayment therefor to employees of the Government at Arctic and Antarctic stations; (f) for the conduct of observations on radio propagation phenomena in the Arctic or Antarctic regions, the appointment of employees at base rates established by the Secretary of Commerce which shall not exceed such maximum rates as may be specified from time to time in the appropriation concerned, and without regard to the civil service and classification laws and titles II and III of the Federal Employees Pay Act of 1945; [and] (g) the erection on leased property of specialized facilities and working and living quarters when the Secretary of Commerce determines that this will best serve the interests of the Government*; and (h) the provision of transportation services for employees of the Institute between the facilities of the Institute and nearby public transportation, notwithstanding section 1344 of title 31, United States Code.*

* * * * * * *

SEC. 19. The Institute in conjunction with the National Academy of Sciences, shall establish and conduct a post-doctoral fellowship program which shall be organized and carried out in substantially the same manner as the National Academy of Sciences/National Research Council Post-Doctoral Research Associate Program that

was in effect prior to 1986, and which shall include not less than twenty nor more than [forty] *60* new fellows per fiscal year.

* * * * * * *

STEVENSON–WYDLER TECHNOLOGY INNOVATION ACT OF 1980

* * * * * * *

SEC. 11. UTILIZATION OF FEDERAL TECHNOLOGY.

(a) * * *

* * * * * * *

(i) RESEARCH EQUIPMENT.—The Director of a laboratory, or the head of any Federal agency or department, may *loan, lease,* give research equipment that is excess to the needs of the laboratory, agency, or department to an educational institution or nonprofit organization for the conduct of technical and scientific education and research activities. *Actions taken under this subsection shall not be subject to Federal requirements on the disposal of property.* Title of ownership shall transfer with a gift under the section.

* * * * * * *

SEC. 17. MALCOLM BALDRIGE NATIONAL QUALITY AWARD.

(a) * * *

* * * * * * *

(c) CATEGORIES IN WHICH AWARD MAY BE GIVEN.—(1) Subject to paragraph (2), separate awards shall be made to qualifying organizations in each of the following categories—

(A) Small businesses.

(B) Companies or their subsidiaries.

(C) Companies which primarily provide services.

[(2) The Secretary may at any time expand, subdivide, or otherwise modify the list of categories within which awards may be made as initially in effect under paragraph (1), and may establish separate awards for other organizations including units of government, upon a determination that the objectives of this section would be better served thereby; except that any such expansion, subdivision, modification, or establishment shall not be effective unless and until the Secretary has submitted a detailed description thereof to the Congress and a period of 30 days has elapsed since that submission.]

[(3)] *(2)* Not more than [two] *4* awards may be made within any subcategory in any year (and no award shall be made within any category or subcategory if there are no qualifying enterprises in that category or subcategory).

* * * * * * *

FASTENER QUALITY ACT

* * * * * * *

SEC. 2. FINDINGS AND PURPOSE.

(a) FINDINGS.—The Congress finds that—

(1) * * *

* * * * * * *

[(4) the sale in commerce of nonconforming fasteners and the use of nonconforming fasteners in numerous critical applications have reduced the combat readiness of the Nation's military forces, endangered the safety of other Federal projects and activities, and cost both the public and private sectors large sums in connection with the retesting and purging of fastener inventories;]

[(5)] *(4)* the purchase and use of nonconforming fasteners stem from material misrepresentations about such fasteners made by certain manufacturers, importers, and distributors engaged in commerce;

[(6)] *(5)* current fastener standards of measurement evaluate bolts and other fasteners according to multiple criteria, including strength, hardness, and composition, and provide grade identification markings on fasteners to make the characteristics of individual fasteners clear to purchasers and users;

[(7)] *(6)* current tests required by consensus standards, designed to ensure that fasteners are of standard measure, are adequate and appropriate for use as standards in a program of high-strength fastener testing;

[(8)] *(7)* the lack of traceability [by lot number] of fasteners sold in commerce is a serious impediment to effective quality control efforts; and

[(9)] *(8)* the health and safety of Americans is threatened by the widespread sale in commerce of mismarked, substandard, and counterfeit fasteners, a practice which also harms American manufacturers, importers, and distributors of safe and conforming fasteners, and workers in the American fastener industry.

(b) PURPOSE.—In order to protect public safety, to deter the introduction of nonconforming fasteners into commerce, to improve the traceability of fasteners [used in critical applications] *in commerce*, and generally to provide commercial and governmental customers with greater assurance that fasteners meet stated specifications, it is the purpose of this Act to create procedures for the testing, certification, and distribution of certain fasteners used in commerce within the United States.

SEC. 3. DEFINITIONS.

As used in this Act, the term—

(1) "alter" means to alter—

(A) by thorough-hardening,

(B) by electroplating of fasteners [having a minimum tensile strength of 150,000 pounds per square inch] *having a minimum Rockwell C hardness of 40 or above*, or

(C) by machining;

(2) "consensus standards organization" means the American Society for Testing and Materials, American National Standards Institute, American Society of Mechanical Engineers, Society of Automotive Engineers, *International Organization for Standardization*, or any other *consensus* standard-setting organization determined by the Secretary to have comparable

knowledge, expertise, and concern for health and safety in the field for which such organization purports to set standards;

* * * * * * *

(5) "fastener" means—

(A) * * *

(B) a screw, nut, bolt, or stud having internal or external threads which bears a grade identification marking required by a standard or specification, *or*

(C) a washer to the extent that it is subject to a standard or specification applicable to a screw, nut, bolt, or stud described in subparagraph (B), [or]

[(D) any item within a category added by the Secretary in accordance with section 4(b),]

except that such term does not include any screw, nut, bolt, or stud that is produced and marked as ASTM A 307 Grade A *or produced in accordance with ASTM F 432*;

(6) "grade identification marking" means any symbol appearing on a fastener purporting to indicate that the fastener's base material, strength properties, or performance capabilities conform to a specific standard of a consensus standards organization or [other person] *government agency*;

* * * * * * *

(8) "Institute" means the National Institute of [Standard] *Standards* and Technology;

* * * * * * *

[(11) "original equipment manufacturer" means a person who uses fasteners in the manufacture or assembly of its products and sells fasteners to authorized dealers as replacement or service parts for its products;]

[(12)] *(11)* "private label distributor" means a person who contracts with a manufacturer for the fabrication of fasteners bearing the distributor's distinguishing insignia;

[(13)] *(12)* "Secretary" means the Secretary of Commerce;

[(14)] *(13)* "standards and specifications" means the provisions of a document published by a consensus standards organization[, a government agency, or a major end-user of fasteners which defines or describes dimensional characteristics, limits of size, acceptable materials, processing, functional behavior, plating, baking, inspecting, testing, packaging, and required markings of any fastener] *or a government agency*; and

[(15)] *(14)* "through-harden" means heating above the transformation temperature followed by quenching and tempering *for the purpose of achieving a uniform hardness*.

[SEC. 4. SPECIAL RULES FOR FASTENERS.

[(a) WAIVER REQUIREMENT.—If the Secretary determines that any category of fastener is not used in critical applications, the Secretary shall waive the requirements of this Act with respect to such category.

[(b) ADDITIONAL ITEMS.—If the Secretary determines that—

[(1) a category of screw, nut, bolt, or stud which is not described in section 3(5)(A)(i) or (B),

[(2) a category of item which is associated with a fastener described in section 3(5)(A), (B), or (C), or

[(3) a category of item which serves a function comparable to that served by a fastener so described

is used in critical applications, the Secretary may include such category under section 3(5)(D) and therefore within the definition of fasteners under this Act.

[(c) NOTICE AND OPPORTUNITY FOR COMMENTS.—The Secretary shall provide advance notice and the opportunity for public comments prior to making any determination under subsections (a) and (b) and shall act through the Director in making any such determination.]

SEC. 5. TESTING AND CERTIFICATION OF FASTENERS.

(a) REQUIREMENT.—(1) No fastener shall be offered for sale or sold in commerce unless it is part of a lot which—

(A) conforms to the standards and specifications to which the manufacturer represents it has been manufactured; and

(B) has been inspected, tested, and certified as provided in [subsections (b) and (c)] *subsections (b), (c), and (d)* of this section.

(2)(A) Paragraph (1)(B) of this subsection shall not apply to fasteners which are part of a lot of 50 fasteners or less if, within 10 working days after the delivery of such fasteners, or as soon as practicable thereafter—

(i) inspection, testing, and certification as provided in [subsections (b) and (c)] *subsections (b), (c), and (d)* is carried out; and

* * * * * * *

(c) LABORATORY REPORT OF TESTING.—If a laboratory performing the inspection and testing under subsection (b)(1) determines, as to the characteristics selected under the sampling procedures prescribed by the Secretary and based on the sample examined, that a lot conforms to the standards and specifications to which the manufacturer represents it has been manufactured, the laboratory shall provide to the manufacturer a written inspection and testing report with respect to such lot. The report, which shall be in a form prescribed by the Secretary by regulation, shall—

(1) state the manufacturer's name, the part description, and the lot number and note the grade identification mark and insignia found on the fastener;

(2) reference the standards and specifications disclosed by the manufacturer with respect to such lot under subsection (b)(1) [or, where applicable, certified by the manufacturer under section 7(c)(1)];

(3) list the markings and characteristics selected under the Secretary's procedures for testing[, such as the chemical, dimensional, physical, mechanical, and any other] significant characteristics required by the standards and specifications described in paragraph (2) and specify the results of the inspection and testing under subsection (b)(1);

(4) *except as provided in subsection (d),* state whether, based on the samples provided as representative of the lot, such lot

has been found after such inspection and testing to conform to such standards and specifications; and

* * * * * * *

(d) ALTERNATIVE PROCEDURE FOR CHEMICAL CHARACTERISTICS.—Notwithstanding the requirements of subsections (b) and (c), a manufacturer shall be deemed to have demonstrated, for purposes of subsection (a)(1), that the chemical characteristics of a lot conform to the standards and specifications to which the manufacturer represents such lot has been manufactured if the following requirements are met:

(1) The coil or heat number of metal from which such lot was fabricated has been inspected and tested with respect to its chemical characteristics by a laboratory accredited in accordance with the procedures and conditions specified by the Secretary under section 6.

(2) Such laboratory has provided to the manufacturer, either directly or through the metal manufacturer, a written inspection and testing report, which shall be in a form prescribed by the Secretary by regulation, listing the chemical characteristics of such coil or heat number.

(3) The report described in paragraph (2) indicates that the chemical characteristics of such coil or heat number conform to those required by the standards and specifications to which the manufacturer represents such lot has been manufactured.

(4) The manufacturer demonstrates that such lot has been fabricated from the coil or heat number of metal to which the report described in paragraphs (2) and (3) relates.

In prescribing the form of report required by subsection (c), the Secretary shall provide for an alternative to the statement required by subsection (c)(4), insofar as such statement pertains to chemical characteristics, for cases in which a manufacturer elects to use the procedure permitted by this subsection.

* * * * * * *

SEC. 6. LABORATORY ACCREDITATION.

(a) ESTABLISHMENT OF ACCREDITATION PROGRAM.—(1) [Within 180 days after the date of enactment of this Act, the] *The* Secretary, acting through the Director, shall issue regulations which shall include—

(A) * * *

* * * * * * *

SEC. 7. SALE OF FASTENERS SUBSEQUENT TO MANUFACTURE.

[(a) DOMESTICALLY PRODUCED FASTENERS.—It shall be unlawful for a manufacturer to sell any shipment of fasteners (except fasteners for which the Secretary has waived the requirements of this Act pursuant to section (4) which are manufactured in the United States unless the fasteners are accompanied, at the time of delivery, by a written certificate by the manufacturer certifying that—

[(1) the fasteners have been manufactured according to the requirements of the applicable standards and specifications and have been inspected and tested by a laboratory accredited in accordance with the procedures and conditions specified by the Secretary under section 6; and

[(2) an original laboratory testing report described in section 5(c) is on file with the manufacturer, or under such custody as may be prescribed by the Secretary, and available for inspection.]

(a) DOMESTICALLY PRODUCED FASTENERS.—It shall be unlawful for a manufacturer to sell any shipment of fasteners covered by this Act which are manufactured in the United States unless the fasteners—

(1) have been manufactured according to the requirements of the applicable standards and specifications and have been inspected and tested by a laboratory accredited in accordance with the procedures and conditions specified by the Secretary under section 6; and

(2) an original laboratory testing report described in section 5(c) and a manufacturer's certificate of conformance are on file with the manufacturer, or under such custody as may be prescribed by the Secretary, and available for inspection.

* * * * * * *

(c) OPTION FOR IMPORTERS AND PRIVATE LABEL DISTRIBUTORS.—(1) * * *

(2) If the importer or private distributor assumes the responsibility in writing for the inspection and testing of such lot or portion, the provisions of section 5(a) and subsections (a) and (b) of this section shall apply to the importer or private label distributor in the same manner and *to the same* extent as to a manufacturer; except that the importer or private label distributor shall provide to the testing laboratory the manufacturer's certificate described under paragraph (1) of this subsection.

(d) ALTERATIONS SUBSEQUENT TO MANUFACTURE.—(1) Any person who significantly alters a fastener so that such fastener no longer conforms to the description in the relevant [certificate] *test report* issued under section 5(c), and who thereafter offers for sale or sells such altered fastener, shall be treated as a manufacturer for purposes of this Act and shall cause such altered fastener to be inspected and tested under section 5 or this section as though it were newly manufactured, unless delivery of such fastener to the purchaser is accompanied by a written statement noting the original lot number, disclosing the subsequent alteration, and warning that such alteration may affect the dimensional or physical characteristics of the fastener.

(2) Any person who knowingly sells an altered fastener and who did not alter such fastener shall provide to the purchaser a copy of the statement required by paragraph (1).

[(e) COMMINGLING.—(1) Subject to paragraph (2), it shall be unlawful for any manufacturer or any person who purchases any quantity of fasteners for resale at wholesale to commingle like fasteners from different lots in the same container; except that such manufacturer or such person may commingle like fasteners of the same type, grade, and dimension from not more than two tested and certified lots in the same container during repackaging and plating operations: *Provided*, That any container which contains like fasteners from two lots shall be conspicuously marked with the lot identification numbers of both lots.

[(2) Paragraph (1) does not apply to sales by original equipment manufacturers to their authorized dealers for use in assembling or servicing products produced by the original equipment manufacturers.

[(f) SUBSEQUENT PURCHASER.—(1) It shall be unlawful for any person to sell fasteners, of any quantity, to any person who purchases such fasteners—

[(A) for sale at wholesale, or

[(B) for assembling components of a product or structure for sale,

unless the container of fasteners sold is conspicously marked with the number of the lot from which such fasteners were taken, except that this requirement shall not apply to sales by original equipment manufacturers to their authorized dealers for use in assembling or servicing products produced by the original equipment manufacturer.

[(2) If a person who purchases fasteners for purposes other than those described in paragraph (1) (A) and (B) so requests either prior to the sale or at the time of sale, the seller shall conspicuously mark the container of fasteners with the lot number from which such fasteners were taken.

[(g) REGULATIONS.—The Secretary may issue such regulations as may be necessary to ensure compliance with the provisions of this section.]

(e) SUBSEQUENT PURCHASER.—If a person who purchases fasteners for any purpose so requests either prior to the sale or at the time of sale, the seller shall conspicuously mark the container of the fasteners with the lot number from which such fasteners were taken.

* * * * * * *

SEC. 9. REMEDIES AND PENALTIES.

(a) * * *

* * * * * * *

(d) ENFORCEMENT.—The Secretary may designate officers or employees of the Department of Commerce to conduct investigations pursuant to this Act. In conducting such investigations, those officers or employees may, to the extent necessary or appropriate to the enforcement of this Act, exercise such authorities as are conferred upon them by other laws of the United States, subject to policies and procedures approved by the Attorney General.

SEC. 10. RECORDKEEPING REQUIREMENTS.

(a) LABORATORIES.—Laboratories which perform inspections and testing under section 5(b) shall retain for [10] *5* years all records concerning the inspection and testing, and certification, of fasteners under section 5.

(b) MANUFACTURERS, IMPORTERS, PRIVATE LABEL DISTRIBUTORS, AND PERSONS WHO MAKE SIGNIFICANT ALTERATIONS.—Manufacturers, importers, private label distributors, and persons who make significant alterations shall retain for [10] *5* years all records concerning the inspection and testing, and certification, of fasteners under section 5, and shall provide copies of any applicable laboratory testing report or manufacturer's certificate upon request to

[any] *the* subsequent purchaser of fasteners taken from the lot to which such testing report or manufacturer's certificate relates.

* * * * * * *

SEC. 13. REGULATIONS.

The Secretary shall [within 180 days after the date of enactment of this Act] issue such regulations as may be necessary to implement this Act.

[SEC. 14. ADVISORY COMMITTEE.

[Within 90 days after the date of enactment of this Act, the Secretary shall appoint an advisory committee consisting of representatives of fastener manufacturers, importers, distributors, end-users, independent laboratories, and standards organizations. The Secretary and Director shall consult with the advisory committee—

[(1) prior to promulgating any regulations under this Act; and

[(2) in such other matters related to fasteners as the Secretary may determine.]

* * * * * * *

XV. Committee Recommendations

On June 28, 1995, a quorum being present, the Committee on Science favorably reported H.R. 1870, the American Technology Advancement Act of 1995, as amended by voice vote and recommends its enactment.

XVI. Reports To Congress

Upon the enactment of this Act, the National Institute of Standards and Technology shall, by January 1, 1996, transmit to the Congress a plan for implementing Section 10 of the amendment regarding standards and conformity assessment.

XVII. Exchange of Committee Correspondence

House of Representatives,
Committee on Science,
Washington, DC, August 4, 1995.

Hon. Thomas J. Bliley, Jr., Chairman,
Committee on Commerce, House of Representatives, Washington, DC.

Dear Mr. Tom: I am in receipt of your letter dated August 3, 1995 regarding amendments to the Fastener Quality Act which have been incorporated into H.R. 1870 which was ordered reported by the Committee on Science on June 28.

I agree that these provisions fall within the jurisdiction of the Commerce Committee, and I thank you for your agreement not to seek sequential referral of this bill. You have my commitment that I will support any request by your Committee for equal conferees on amendments to the Fastener Quality Act or related legislation should a House-Senate conference be convened on this legislation.

Your letter, and this response, will be included as part of the Committee's report on H.R. 1870 and will be a part of the record during consideration of this bill by the full House.

Thank you for your assistance in expediting consideration of this important legislation.

Sincerely,

ROBERT S. WALKER, *Chairman.*

HOUSE OF REPRESENTATIVES,
COMMITTEE ON COMMERCE,
Washington, DC, August 3, 1995.

Hon. ROBERT S. WALKER,
Chairman, Committee on Science,
2320 Rayburn House Office Building, Washington, DC.

DEAR MR. CHAIRMAN: On June 28, 1995, the Committee on Science ordered reported H.R. 1870, the American Technology Advancement Act of 1995. H.R. 1870, as ordered reported by the Science Committee, contains amendments to the Fastener Quality Act.

The Commerce Committee has had a longstanding jurisdictional interest in the issue of fastener quality and the Fastener Quality Act. In the 100th Congress, the Committee undertook an investigation of counterfeit and substandard fasteners. This investigation resulted in the issuance of a unanimously approved Subcommittee report entitled "The Threat from Substandard Fasteners: Is America Losing Its Grip."

In the 101st Congress, Congressman Dingell and Congressman Roe each introduced separate bills on fastener quality. Congressman Dingell and Congressman Roe drafted a composite bill, H.R. 3000, which was reported by both the Commerce Committee and the Science Committee and ultimately became the Fastener Quality Act of 1990.

It is my understanding that the amendments to the Fastener Quality act proposed in H.R. 1870 are based on the recommendations of the industry-government Fastener Public Law Task Force. These amendments primarily address three issues: heat mill certification; commingling; and minor nonconformance.

while the provisions of H.R. 1870 that amend the Fastener Quality Act clearly fall within the jurisdiction of the Commerce Committee, I recognize your desire to bring this legislation before the House in an expeditious manner. Therefore, I will not seek a sequential referral of the bill. By agreeing not to seek a sequential referral, the Commerce Committee does not waive its jurisdiction over these provisions. In addition, the Commerce Committee reserves its authority to seek equal conferees on these and any other provisions of the bill that are within the Commerce Committee's jurisdiction during any House-Senate conference that may be convened on this legislation. I would seek your commitment to support any request by the Commerce Committee for equal conferees on amendments to the Fastener Quality Act or related legislation.

I would appreciate your including this letter as a part of the Committee's report on H.R. 1870 and as part of the record during consideration of this bill by the House.

Thank you for your cooperation on this matter.

Sincerly,

THOMAS J. BLILEY, JR., *Chairman.*

XVIII. MINORITY VIEWS

Despite its title, enactment of H.R. 1870, the American Technology Advancement Act, would not advance American technology; to the contrary, it would be a blow to U.S. economic growth and technology development. The problem is not so much in what the bill does—its reauthorization of NIST's internal programs is broadly supported on both sides of the aisle—but in what the bill fails to do. For the first time, the Committee has arbitrarily divided NIST's internal and external programs into separate authorization bills. The Chairman has chosen to report H.R. 1870, which authorizes NIST's intramural labortory programs, but *not* to consider H.R. 1871, which authorizes NIST's technology and manufacturing support programs.

We are dismayed that the full Committee did not follow the lead of the Technology Subcommittee in reporting both H.R. 1870 and H.R. 1871. The Subcommittee's action unanimously endorsed a well-balanced NIST, including continuation of the ATP and the MEP. Yet, at full Committee, the same majority Members who voted for H.R. 1871 at Subcommittee voted against adding the text of H.R. 1871 to H.R. 1870.

Presumably, this action was intended to send a signal to the appropriations committee that only NIST's internal programs should receive funding. The Committee apparently intends to bury NIST's technology and manufacturing support programs without ever having to endure the political inconvenience of debating their merits or voting on the record to kill them.

At a time when we are trying to grow our way to a balanced budget, killing NIST's Manufacturing Extension Program and the Advanced Technology Program is both short-sighted and foolish.

NIST's Manufacturing Extension Program, which originated during the Reagan Administration, has been the salvation of many American small manufacturing businesses. Faced with increasing direct global competition in the mid-1980s, small American manufacturers needed to become more efficient, but objective sources of modernization advice were costly or nonexistent. Abroad, countries like Japan, Germany, Singapore and Italy all launched manufacturing extension programs to help their small manufacturers innovate, renovate, and compete. The Manufacturing Extension program (MEP) was NIST's response. The MEP demonstrated that the federal government, in partnership with local business groups, educational institutions, and state governments, could provide small manufacturers with modernization services worth several times the Federal investment.

In 1993, a five year effort to make these services available to every U.S. manufacturer who needed them began with funding from NIST and the Department of Defense's Technology Reinvestment Program. Centers now serve businesses in 30 states and are

making major contributions to civilian manufacturing and the defense supplier base.

The Advanced Technology Program, which also dates to the Reagan era, addresses another market failure. Entrepreneurs and others were having trouble finding the patient capital necessary to develop those leading edge technologies which, while not currently marketable, are likely to underpin the economy of the early 21st century. Hearings held by the Technology Subcommittee earlier this year demonstrated that obtaining early stage capital is still a problem for technology developers. The business witnesses called by the majority were united in support of these programs; witness after witness testified that their company or project would not have gotten off the ground without ATP's matching funds. The testimony was unequivocal that, in the real world, ATP works. The only testimony against the ATP program was from inside-the-beltway conservative think tanks who preferred ideology over real world results.

Chairman Walker also has charged that the ATP awards were politically biased, noting that the majority of companies receiving ATP awards in four states—California, Pennsylvania, New York, and Michigan—were located in Democratic congressional districts. This accusation is unfair, unwarranted, and unsubstantiated. In the first place, all of the governors and half of the Senators representing these four states are Republicans; it is hard to see how such ATP awards could have accrued to the political benefit of Democrats alone. Furthermore, the choice of those four states is blatantly unrepresentative. For example, had Chairman Walker chosen instead to review Illinois, New Jersey, North Carolina, and Wisconsin, he would have found that the majority of ATP awards are in Republican Congressional districts. The fact is that overall, 42% of ATP grants have been in Republican Congressional districts and 58% have been in Democratic Congressional districts—percentages which are in line with the historical political distribution of Congressional districts and the tendency for Democrats to represent urban districts where small manufacturers are located. There is simply no evidence to support Chairman Walker's allegations that ATP awards are based on political influence.

We firmly believe in the need to reduce the Federal deficit and to Decrease Federal spending, but balancing the deficit should not be used as an excuse to stop investing in our future. This year the Committee chose not to undertake a careful and thorough evaluation of the programs under its jurisdiction. The results are sadly predictable. Merit-reviewed public/industry partnerships funded by the Department of Commerce are proposed for elimination, while the larger, politically-connected, but less effective Small Business Innovation Research program, and other cooperative programs with industry in most other agencies, have not even been reviewed.

In the current budget climate, it is all the more important that we examine programs for priority and funding levels based on a careful examination of the facts. There will be times when Republicans and Democrats can agree to disagree, but these disagreements should be on the merits after thoughtfully examining the alternatives. We regret that this course was not chosen by the Committee in its consideration of ATP and MEP.

JOHN W. OLVER.
MIKE WARD.
ZOE LOFGREN.
JAMES BARCIA.
LYNN N. RIVERS.
KAREN M. MCCARTHY.
JANE HARMAN.
GEORGE E. BROWN, Jr.
TIM ROEMER.
JOHN TANNER.
SHEILA JACKSON LEE.
MIKE DOYLE.
ALCEE L. HASTINGS.
LLOYD DOGGERT.
PAUL MCHALE.
JAMES A. TRAFICANT.
EDDIE BERNICE JOHNSON.

XIX. ADDITIONAL VIEWS

On June 28, 1995, the House Science Committee considered H.R. 1870, which authorized the core NIST programs. At full Committee, after a number of amendments had been offered and defeated to reinstate the Advanced Technology Program (ATP) and Manufacturing Extension Partnership (MEP) programs, I offered an amendment to open the door to future funding of the MEP program. Cosponsored by Rep. Sherwood Boehlert (R-NY), this amendment was accepted by the Chairman of the Committee and adopted by voice vote. I am gratified that the McHale-Boehlert Amendment served to express the Committee's support of this valuable program, paving the way for future funding through the appropriations process. In fact, immediately prior to the vote on my amendment, I announced to the Committee that more than $80 million in funding would likely become available due to the fact that the Appropriations Subcommittee on Commerce, Justice, State, and Judiciary had just completed their markup, and had included funding for the MEP. The full Appropriations Committee supported the Subcommittee recommendation, including $81.1 million for the Manufacturing Extension Partnership in H.R. 2076, the Commerce, Justice, State, and the Judiciary Appropriations bill. It is my hope that this funding level will be increased, or at the very least maintained, as this bill moves through the legislative process.

PAUL MCHALE.

ADDITIONAL VIEWS

In addition to the substantive concerns which have been discussed by other minority Members, with which we concur, we are also constrained to note that portions of the Committee's report violate Committee Rule 21(b). Committee Rule 21(b) states:

> No legislative report filed by the committee on any measure or matter reported by the committee shall contain language which has the effect of specifying the use of federal resources more explicitly (inclusively or exclusively) than that specified in the measure or matter as ordered reported, unless such language has been approved by the committee during a meeting or otherwise in writing by a majority of the Members.

This rule was adopted to ensure that the Committee report faithfully and fairly represents the will of the majority of the Committee and does not include spending directions or policy mandates that were not, in fact, voted on and approved by a majority of the Committee.

The report, however, contains a number of spending instructions and policy directions which have absolutely no support in the record, much less a majority vote of approval.

For example, under the subheading "Reductions from Presidential Request Levels" within section viii, the report explicitly directs NIST not to pursue programmatic research in information infrastructure, environmental technologies, fire research, and health care. However, none of these constraints are found within the text of the legislation itself, and the Committee did not adopt any report language which was clearly consistent with these directions. The report goes on to state that "[t]he adjustments made in these four areas reflect Committee assessments that certain existing, or proposed program activities are, or would have been, insufficiently related to the core mission of NIST . . . ." Again, there is nothing in the transcript of either the Subcommittee or full Committee markup or in staff reports to support the claim that any such "assessment" was made. Casting these arbitrary edicts as the result of careful Committee consideration is entirely inaccurate.

Consistent with well-established legal principles, report language is not binding on agencies. In this particular case, the report language should be given even less consideration because it violates the Committee's own rules.

The report also persists in the fiction that the House-passed budget resolution included specific funding levels for TA/NIST's programs. The report, for example, states that the Democratic alternative budget exceeded the House-passed budget resolution. There is, of course, nothing in the House-passed budget resolution which relates specifically to TA/NIST. There is non-binding lan-

guage in the report accompanying the House budget resolution, but such report language is not voted on by the House and hardly merits the exalted status which the majority seems to bestow upon it. Nevertheless, the report compares the Democratic funding alternative amendment as exceeding this fictional number, presumably intending to imply that the Democratic amendment was somehow a "budget-buster." In fact, the Democratic substitute would have cut TA/NIST spending by 13 percent below the FY95 level, and 27 percent below the President's request. In contrast, the bill as reported reduces NIST funding by 60 percent from FY95 levels.

GEORGE E. BROWN, JR.
JOHN TANNER.

XX. PROCEEDINGS FROM SUBCOMMITTEE MARKUP

SUBCOMMITTEE MARKUP—AMERICAN TECHNOLOGY ADVANCEMENT ACT OF 1995

THURSDAY, JUNE 15, 1995

HOUSE OF REPRESENTATIVES,
COMMITTEE ON SCIENCE,
SUBCOMMITTEE ON TECHNOLOGY,
Washington, D. C.,

The Subcommittee met at 9:30 a.m. in Room 2318 of the Rayburn House Office Building, the Honorable Connie Morella, Chairman of the Subcommittee, presiding.

Mrs. MORELLA. Good morning.

The Committee will now come to order for the markups.

Pursuant to notice, the Subcommittee on Technology is meeting today to consider the following measures:

The American Technology Advancement Act of 1995, and the National Institute of Standards and Technology Industrial Technology Services Authorization Act of 1995.

As Chair, I ask unanimous consent for the authority to recess. Hearing no objection, so ordered.

I will ask that when members speak, if we all kindly use the microphone so that the reporter can get all of your words down.

In this Congress, this Subcommittee is faced with the challenge of attempting to actively encourage technological innovation while also operating under very tight budgetary constraints.

As a result, we must prioritize our Federal spending resulting in limitation of our ability to fund every worthwhile program.

This fiscal limitation is affecting us here today, as we prepare to authorize programs for the Department of Commerce's Technology Administration and the National Institute of Standards and Technology for fiscal year 1996.

The House passed a budget resolution last month which commits us to reducing Federal spending and moving our Government to a balanced budget in seven years. We are now engaging in a collaborative process with the Budget Committee, the Appropriations Committee, and this Authorizing Committee to do just that.

Everyone here knows of my strong support for NIST. The agency is headquartered in my district in Gaithersburg, Maryland. I have been there many times to see, firsthand, the vital work and the research that they perform.

I believe that NIST is a well-run agency with a well-defined mission. NIST's mission to promote economic growth by working with industry to develop and apply technology measurements and standards is integral to our nation's competitiveness in the global marketplace.

And of course, if it were possible, I think you all know that my preference would be to fully fund every NIST mission and function.

However, given our commitment to balance the budget, that simply cannot be a reality. There are difficult decisions to be made everywhere, difficult decisions which we must make and which affect all of us in our district.

This Subcommittee has an authorization budget cap of $342.7 million for fiscal year 1996, and we must be bound by that level. That level has been provided to us under the House passed budget resolution.

Obviously, this means that we must prioritize the funding for NIST's functions.

Today, we're going to be marking up two bills, the American Technology Advancement Act and the NIST Industrial Technology Services Authorization Act.

We intend to consider two separate bills because it's my intention to favorably report out authorizations for the NIST laboratory functions as well as the extramural advanced technology program and the manufacturing extension partnership.

Yet, we do not have the budget to fund ATP and MEP, in addition to the core scientific work that's being done at the NIST laboratories. NIST's core programs must be a priority.

In addition, NIST's construction account must be maintained as another priority. Without the necessary renovation and construction of facilities, NIST would simply not be able to adequately fulfill its basic mission in the future.

And while many programs were reduced or frozen by the House Budget Resolution, the NIST core programs in the scientific and technical research services account and the construction of research facilities account both assume an increase in funding every year. In fact, Budget Function 370, the Commerce and Housing Credit Section, the only two programs in the entire section with an increase annual funding are those two programs.

It is unique in this year's resolution to see any growth in a discretionary program, and I suggest that we endorse that growth today.

I therefore propose that this Subcommittee report out the NIST Authorization Act with language providing such sums as may be appropriated.

This authorizes the appropriators to fund, without prejudice, the extramural programs to the extent they are willing and able.

This also sends a message, a signal to the appropriators that this Subcommittee agrees with the House passed budget resolution that NIST core funding and construction must be maintained.

As the first priority, I believe that given our present budget situation, the course that we're taking today is NIST's best hope for funding all of its current programs.

First of all, I'd like to take up the American Technology Advancement Act.

In addition to providing fiscal year 1996 authorizations for the Under Secretary for Technology for the NIST core programs for the construction of research facilities, the Act also contains language permitting NIST to perform important administrative functions, such as expanding its ability to continue hiring the best and the brightest scientists.

These changes include permanently extending the NIST personnel demonstration project, which has been such a model for other agencies, increasing the cap on the NIST post-doctoral fellows program, providing authority to give excess scientific equipment to secondary schools, and creating authority for a NIST metro shuttle for employees, among others.

So we will then take up the NIST ITS Authorization Act. In addition to authorizing the ATP and the MEP, as I have mentioned, the Act also contains a number of technical modifications to the law to streamline and simplify the fee awarding process.

That being said, I now recognize the distinguished ranking minority member, Mr. Tanner, for his opening statement.

[The prepared statement of Mrs. Morella follows:]

Opening Statement of
Chairwoman Constance A. Morella

Subcommittee on Technology
House Science Committee

Markup of the American Technology Advancement Act and the National Institute of Standards and Technology Industrial Technology Services Authorization Act

June 15, 1995

In this Congress, this Subcommittee is faced with the challenge of attempting to actively encourage technological innovation while also operating under very tight budgetary constraints. As a result, we must prioritize our federal spending, resulting in a limitation of our ability to fund every worthwhile program.

This fiscal limitation is affecting us here today as we prepare to authorize programs for the Department of Commerce's Technology Administration and the National Institute of Standards and Technology for Fiscal Year 1996.

The House passed a budget resolution last month which commits us to reducing federal spending and moving our government to a balanced budget in seven years. We are now engaging in a collaborative process with the Budget Committee, the Appropriations Committee, and this authorizing committee to do just that.

Everyone here knows of my strong support for NIST. The agency is headquartered in my District and I have been to Gaithersburg many times to see first-hand the vital work and research they perform.

I believe NIST is a well-run agency with a well-defined mission. NIST's mission to promote economic growth by working with industry to develop and apply technology, measurements, and standards is integral to our nation's competitiveness in the global marketplace.

If it were possible, I think you all know that my preference would be to fully fund every NIST function. However, given our commitment to balance the budget, that can not be the case. There are difficult

decisions to be made everywhere -- difficult decisions which we all must make and which affect all of our Districts.

This subcommittee has an authorization budget cap of $342.7 million for Fiscal Year 1996 and we must be bound to that level. That level has been provided to us under the House-passed budget resolution. Obviously, this means that we must prioritize the funding for NIST's functions.

Today we are marking up two bills, the American Technology Advancement Act and the NIST Industrial Technology Services (ITS) Authorization Act. We intend to consider two separate bills because it is my intention to favorably report out authorizations for the NIST laboratory functions as well as the extramural Advanced Technology Program (ATP) and the Manufacturing Extension Partnership (MEP).

Yet we do not have the budget to fund ATP and MEP in addition to the core scientific work being done at the NIST laboratories. NIST core programs must be a priority. In addition, NIST's construction account must be maintained as another priority. Without the necessary renovation and construction of facilities, NIST will simply not be able to adequately fulfill its basic mission in the future.

While many programs were reduced or frozen by the House budget resolution, the NIST core programs in the Scientific and Technical Research Services (STRS) account and the Construction of Research Facilities account both assume an increase in funding every year. In fact, in Budget Function 370, the Commerce and Housing Credit section, the only two programs in the entire section with an increase in annual funding are those two programs. It is unique in this year's resolution to see any growth in a discretionary program and I suggest that we endorse that growth today.

I therefore propose that this Subcommittee report out the NIST ITS Authorization Act with language providing "such sums as may be appropriated." This authorizes the appropriators to fund without

prejudice the extramural programs, to the extent they are willing and able.

This also sends the signal to the appropriators that this Subcommittee agrees with the House-passed budget resolution that NIST core funding and construction must be maintained as the first priority. I believe that given our present budget situation, the course we are taking today is NIST's best hope for funding all its current programs.

I wish to first take up the American Technology Advancement Act. In addition to providing Fiscal Year 1996 authorizations for the Under Secretary for Technology, for the NIST core programs, and for construction of research facilities, the Act also contains language permitting NIST to perform important administrative functions, such as expanding its ability to continue hiring the "best and the brightest" scientists.

These changes include: permanently extending the NIST Personnel Demonstration Project; increasing the cap on the NIST Postdoctoral Fellows Program; providing authority to give excess scientific equipment to secondary schools; and creating authority for a NIST Metro Shuttle for employees, among others.

We will then take up the NIST ITS Authorization Act. In addition to authorizing the ATP and the MEP, the Act also contains a number of technical modifications to the law to streamline and simplify the ATP awarding process.

I now recognize the distinguished Ranking Minority Member, Mr. Tanner, for his opening statement.

Mr. TANNER. Thank you very much, Madam Chairwoman. I appreciate our working relationship and the courtesy of the chair.

But I must say, I'm dismayed at what's taking place this morning. Despite the markup of the bills to authorize the Advanced Technology Program and the Manufacturing Extension Partnership, the fact is the bill is not even scheduled for consideration by the Full Committee.

This dismays me, the markup today and next week, in my judgment, will roll back American research and development policy to the 1950s.

By our action and the de facto elimination of NIST's Advanced Technology Program and Manufacturing Extension Partnership program, and the Baldridge quality program, we send a strong signal to the business community, both large and small, that we don't care much about the harsh economic realities they face today.

Corporate research focus is short term, for the most part. The market forces, the stock market, and other forces and shareholder interests inhibit many long-term research and development actions that only a partnership created herein can provide.

As Michael Schrade, Research Associate at MIT, put it, what's being advocated are science and technology policies that would have been deemed simplistic during the country's agrarian heyday.

By our action, we're going to eliminate government industry partnerships which enjoy widespread support among the private sector and professional associations and the university community.

I would ask, what is the Committee basing its actions upon this morning?

At the only hearing we held this year on these programs, only two witnesses, with no business or technical experience, spoke against the ATP program. No one spoke in opposition to the Baldridge quality program or the MEP.

What makes these two authorities on the future of our nation's businesses' long-term research needs?

No science or engineering training, no private sector experience. They represent ivory tower intellectuals whose entire career consists of working inside the beltway and writing in theory.

This Subcommittee is ignoring the testimony of seven business leaders who embrace these programs. In fact, the Subcommittee is ignoring its own hearing record and is presently considering legislation with no clear defensible rationale.

By de facto eliminating the extramural programs at NIST, we will be turning our backs on our constituents and the backbone of our society.

Typical of the letters I received regarding the MEP is one from a small firm in Memphis which says, to be frank, it is rare when anything connected to a Federal program has helped my small company. This is decidedly one of these times, and I thought I should let you know.

The programs we are cutting today affect the states and districts of every member in this room in an adverse way.

Another thing that dismays me is that the current debate is focused less on policy than on political rhetoric and innuendo. Corporate welfare, picking winners and losers, and political favoritism have been erroneously used, referring to these programs at NIST.

These arguments are unfounded and ill-informed.

I'm even more concerned about the recent allegations that NIST awards have been politically motivated, an outrageous charge that has never been made before, and remains completely unsubstantiated.

In closing, I'd like to quote from testimony provided to the Subcommittee in support of the ATP by David Singer, President and CEO of Acumetrics, and a recent ATP awardee.

From the view of a small company, at least 3,000 miles from Washington, D.C., the encouraging part of the current debate about fiscal responsibility in Congress is the acknowledgment that we must reduce the deficit and stop mortgaging our future standard of living for current consumption.

That's ultimately the whole point of this exercise. It seems to me that a major part of being fiscally responsible is creating an environment where we, as a nation, are investing appropriately in our future. We need to continue support for the ATP in order to positively leverage our investment in the future.

And I hope as we debate the merits of these programs today and consider the amendments that will be offered, we'll keep these words in mind.

Madam Chairwoman, with that, I will yield back.

Mrs. MORELLA. I thank the distinguished ranking minority member for offering his views.

I'd like to ask now if there are any other members seeking recognition for an opening statement.

With pleasure, I now recognize Mr. Brown, the ranking member.

Ms. JOHNSON. Thank you, Madam Chairwoman.

Initially, I would like to commend the Chair for bringing the two bills we're going to consider today before the Subcommittee.

Of primary concern to me are the external programs commonly known as the Manufacturing Extension Partnership, or the MEP, and the Advanced Technology Program, known as the ATP.

While I understand the position of the Chair of the Full Committee, and the position of you, Madam Chair, to be that government should focus its efforts on basic research areas, I believe that the ATP is a crucial portion of our nation's commitment to moving into the next century as a world leader in technology.

The purpose of the ATP is to advance our own economic growth by assisting in the development of technology prior to its use in the commercial applications. Over half of the funding for these projects comes from the private sector.

Additionally, because the technologies developed by the program remain generic in nature, private companies often end up spending a much larger amount to bring these technologies to the stage appropriate for commercial applications.

With the Full House considering the Defense Authorization this week, we have before us in this Subcommittee one of the very few government efforts designed to assist in the development of non-defense technologies.

As we move beyond the Cold War and into the 21st century, the development of civilian technologies is of paramount importance in our efforts to compete in the global marketplace.

In addition to the direct effects of ATP programs, direct effects also include the development of industry groups which might otherwise never exist.

The ATP does not mean that the government chooses its favorite industries to support. Contrary to some of the assertions that have been made in the past Committee meetings, the selection process for ATP grants is not biased toward a technology or industry.

And finally, the ATP program is not a budget buster. We all understand that cuts have to be made. But shortsighted reductions in the programs that create jobs and expand the revenue base of the Federal Government are not the appropriate vehicle to balance the budget, in my opinion.

This program, as well as the MEP, has a high potential payoff for the nation as a whole, so once again, I commend you, Madam Chairman, and hope that we can consider the value of the ATP program.

Thank you.

Mrs. MORELLA. Thank you, Ms. Johnson.

I would now like to recognize, before we recess to vote, the Vice Chairman of the Committee, Mr. Calvert, for an opening statement.

Mr. CALVERT. Thank you, Madam Chairman.

I just have a short comment.

I'm quite frankly dismayed that comments would be made that the concept that government must fund basic science because of the feeling that the private sector will not invest in research and development.

If that's the case, then let's help to change the corporate culture in America today, and rather than a few looking for a government to assist, have the many be involved in programs that help them or encourage them to have more investment in research and development, for instance, making the research and development tax credit permanent.

So, Madam Chairman, thank you.

Mr. BROWN. Madam Chairman?

Mrs. MORELLA. Yes?

Mr. BROWN. In the interest of time, and knowing that we should go vote, I would like to take a moment for an opening statement, but put most of it in the record. I don't really care whether the members listen to it or not, so they can go vote. [Laughter.]

Mrs. MORELLA. Mr. Brown, I appreciate your brevity because we do have a rule that says ten minutes of opening statements, since you did chair this Committee, so if you would make a brief statement, that would be splendid.

Then we'll recess to vote.

Mr. BROWN. Madam Chairman, I would be more than delighted to accept the guidance that you have offered.

I ask unanimous consent to revise and extend my remarks.

Mrs. MORELLA. So ordered.

[The prepared statement of Mr. George E. Brown, Jr., follows:]

Insert T.1

Opening Statement

Hon. George E. Brown, Jr.

Markup of FY 1996 Authorization for Department of Commerce Technology Programs

I wish I could be optimistic in my opening remarks but today I cannot, for if our consideration of today's first authorization bill holds true to form, we will once again pretend that our hands have been tied by the report to accompany the House-passed budget resolution. We will then vote once again to dismantle a series of programs which have or could bring

economic benefits far in excess of their costs to our Congressional districts. If we don't provide authorizations for the ATP and MEP programs in a bill that has a chance of being reported from our Full Committee, we will effectively pull the plug on dozens of promising high technology businesses who badly need ATP matching funds. We will end the hopes of numerous entrepreneurs who want to develop their most promising ideas here in the United States. We will end ready access to modernization advice for tens of thousands of manufacturers in 30 or more states.

In doing so, we will not save the American taxpayers a penny. The 602(b)

allocations have been set by the House Committee on Appropriations. They know exactly how much money they will spend; they have yet to decide where they will spend it. Whether we authorize $200 million or $2 trillion will not change the grand total appropriated by the Appropriations Subcommittee on Commerce, Justice, State, and the Judiciary by one nickel. They will spend exactly the same total amount regardless of what we authorize. What we are doing by lowballing NIST authorizations, is taking away the Appropriations Committee's flexibility to spend money on the programs we do not authorize. We are saying to our colleagues that they cannot help manufacturers

modernize or entrepreneurs innovate even if they want to do so. Rather, they must spend their money on the programs other subcommittees have authorized. And we know from past experience that the Departments of Justice and State have endless appetites. Therefore, a vote against the NIST funding request is a vote in favor of building prisons, of putting more lawyers on the government payroll, and of improving the lifestyles of our diplomats. Our international competitors should be breaking out the sake in Tokyo and the champagne in Frankfurt. They know, even if we won't admit it, that we are damaging our chance to be competitive with them in the future without reducing the deficit by one

red cent. A 70 percent cut in the Department of Commerce's technology budget must be beyond their wildest dreams.

How did we end up in this mess? Do we have a mandate or a record on which to kill these programs, whose authors include Science Committee Republicans such as Sherry Boehlert and Don Ritter? I think not. In our one day of NIST hearings this year, several entrepreneurs explained why NIST's Advanced Technology Program and Manufacturing Extension Program were essential to their success. They confirmed the testimony of dozens of witnesses from past years. Only two ivory tower economists, who have never worked in the

private sector, called these programs "corporate welfare." these same academics diminished their credibility when they said the same things about the space station, the shuttle program, and most other programs industry likes.

If today's mark-up goes as I expect it will, I hope that no one here will confuse it with a victory for technology, for U.S. manufacturers, or for the American people. Michael Schrage recently described today's type of vote as "beating something with nothing". He described this Congress's failure to come up with alternatives to the science and technology policies it does not like as the most glaring policy weakness

from a group that wants to push America into the future. Regrettably, I must agree. As a Technology Subcommittee, we should realize that it is impossible to turn back the clock. Technology is changing the world too fast. Reagan era technology policy is second wave history and should remain so.

In closing, I want you to remember today's bottom line. The Departments competing for Commerce Subcommittee appropriations are Commerce, State, and Justice, and our actions today will help allocate a fixed number of dollars among them. By raising our authorization cap on NIST appropriations to a reasonable level,

we give the appropriators the option to continue funding programs promoting technological innovation. If we vote no on this proposal, we are voting by default to spend that money on government lawyers and state department bureaucrats. A yes vote allows appropriators to send money home to our districts to help manufacturers and entrepreneurs. A no vote almost certainly will give that same money to Justice and State Department bureaucrats at home and overseas. Let's collectively try to do the right things for our constituents and our children.

Mr. BROWN. I endorse the statement made by Mr. Tanner, which expresses my own concerns, and by Ms. Johnson. I think that they reflect our concerns here.

I would just like to make the additional point that in your own opening statement, which I admired greatly, you did, as a matter of fact, in the second paragraph on page two, make some statements with which I cannot agree, such as this Committee has an authorization budget cap of $342.7 million for fiscal year 1996.

This is an artful fiction contrived by the Chairman of the Full Committee to which the gentlelady's language is lending substance. And I hope that you will permit me to respectfully disagree.

There is no such thing as an authorization budget cap in the rules of the House or in law or in any other thing. And we have the discretion to act as we see fit in our best judgment with regard to authorization levels.

I will expand on that statement in my prepared remarks, and I yield back the balance of my time.

Mrs. MORELLA. I appreciate, very much, Mr. Brown, your making that statement. I appreciate the brevity of it too. We'll have further opportunities to discuss it but this was something that was established in terms of the Budget Authorization Act, and if we don't play within these amounts of money, we're not going to even be involved in the appropriations process.

So I think it behooves us to establish the priorities that are necessary for our situation. And that's why the bill, such as sums as may be appropriated, also maybe keep something alive for the hope that there will be some assistance given.

Thank you.

We'll now recess to vote.

[Recess.]

Mrs. MORELLA. The Committee will reconvene for the markup and we'll now consider the Subcommittee print of the American Technology Advancement Act of 1995, which was prepared by counsel and previously distributed to the members.

So I ask unanimous consent for the first reading of the bill. I now ask unanimous consent that it be considered as read and open for amendment at any point.

[The bill follows:]

SUBCOMMITTEE PRINT

JUNE 12, 1995

104TH CONGRESS
1ST SESSION

H. R. _____

IN THE HOUSE OF REPRESENTATIVES

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

A BILL

To authorize appropriations for the activities of the Under Secretary of Commerce for Technology, and for Scientific and Technical Research Services and Construction of Research Facilities activities of the National Institute of Standards and Technology, for fiscal year 1996, 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 **SECTION 1. SHORT TITLE.**
4 This Act may be cited as the "American Technology
5 Advancement Act of 1995".

1 **SEC. 2. AUTHORIZATION OF APPROPRIATIONS.**

2 (a) UNDER SECRETARY FOR TECHNOLOGY.—There
3 are authorized to be appropriated to the Secretary of Com-
4 merce for the activities of the Under Secretary for Tech-
5 nology/Office of Technology Policy $5,066,000 for fiscal
6 year 1996.

7 (b) NATIONAL INSTITUTE OF STANDARDS AND
8 TECHNOLOGY.—There are authorized to be appropriated
9 to the Secretary of Commerce for the following activities
10 of the National Institute of Standards and Technology:

11 (1) For Scientific and Technical Research and
12 Services, $272,179,000 for fiscal year 1996, of
13 which—

14 (A) $39,628,000 shall be for Electronics
15 and Electrical Engineering;

16 (B) $19,565,000 shall be for Manufactur-
17 ing Engineering;

18 (C) $28,127,000 shall be for Chemical
19 Science and Technology;

20 (D) $28,082,000 shall be for Physics;

21 (E) $54,314,000 shall be for Material
22 Science and Engineering;

23 (F) $13,517,000 shall be for Building and
24 Fire Research;

25 (G) $30,704,000 shall be for Computer
26 Systems;

1 (H) $10,964,000 shall be for Applied
2 Mathematics and Scientific Computing;
3 (I) $19,109,000 shall be for Technical As-
4 sistance;
5 (J) $28,169,000 shall be for Research
6 Support; and
7 (K) such sums as may be necessary for
8 compensation of Federal employees who admin-
9 ister the Malcolm Baldrige National Quality
10 Program under section 17 of the Stevenson-
11 Wydler Technology Innovation Act of 1980 (15
12 U.S.C. 3711a); and
13 (2) for Construction of Research Facilities,
14 $65,455,000 for fiscal year 1996.
15 SEC. 3. NATIONAL INSTITUTE OF STANDARDS AND TECH-
16 NOLOGY ACT AMENDMENTS.
17 The National Institute of Standards and Technology
18 Act (15 U.S.C. 271 et seq.) is amended—
19 (1) in section 10(a)—
20 (A) by striking "nine" and inserting in lieu
21 thereof "15"; and
22 (B) by striking "five" and inserting in lieu
23 thereof "10";
24 (2) in section 15—

1 (A) by striking "Pay Act of 1945; and"
2 and inserting in lieu thereof "Pay Act of
3 1945;"; and
4 (B) by inserting "(h) the provision of
5 transportation services for employees of the In-
6 stitute between the facilities of the Institute
7 and nearby public transportation, notwithstand-
8 ing section 1344 of title 31, United States
9 Code," after "interests of the Government";
10 and
11 (3) in section 19, by striking "nor more than
12 forty" and inserting in lieu thereof "nor more than
13 60".
14 SEC. 4. STEVENSON-WYDLER TECHNOLOGY INNOVATION
15 ACT OF 1980 AMENDMENTS.
16 The Stevenson-Wydler Technology Innovation Act of
17 1980 (15 U.S.C. 3701 et seq.) is amended—
18 (1) in section 11(i) (15 U.S.C. 3710(i))—
19 (A) by inserting "loan, lease," after "de-
20 partment, may"; and
21 (B) by inserting "Actions taken under this
22 subsection shall not be subject to Federal re-
23 quirements on the disposal of property." after
24 "education and research activities."; and
25 (2) in section 17(c) (15 U.S.C. 3711a(c))—

1 (A) by striking paragraph (2);

2 (B) by redesignating paragraph (3) as

3 paragraph (2); and

4 (C) in paragraph (2), as so redesignated

5 by subparagraph (B) of this paragraph, by

6 striking "two" and inserting in lieu thereof

7 "4".

8 **SEC. 5. PERSONNEL.**

9 The personnel management demonstration project es-

10 tablished under section 10 of the National Bureau of

11 Standards Authorization Act for Fiscal Year 1987 (15

12 U.S.C. 275 note) is extended indefinitely.

Mrs. MORELLA. I'm going to ask that the members proceed with the amendments in the order of the roster.

The bill is now open for amendments.

We'll proceed to the ranking member and ask him to introduce his first amendment on the roster.

[The material referred to follows:]

COMMITTEE ON SCIENCE
Subcommittee on Technology

Markup: June 15, 1995

AMENDMENT ROSTER

H.R. -- the American Technology Advancement Act of 1995

No.	Sponsor	Description	Results
1.	Mr. Tanner	An amendment in the nature of a Substitute to the Subcommittee Print	
2.	Ms. Johnson	En bloc amendment creating a Title I--General Authorizations & Title II--Industrial Technology Services	
3.	Mr. Brown	En bloc amendment on the Malcolm Baldridge Award	
4.	Ms. Lofgren	An amendment creating a new Section 6--Contingent Authorization.	

AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. TANNER TO THE SUBCOMMITTEE PRINT

Strike all after the enacting clause and insert in lieu thereof the following:

1 SECTION 1. SHORT TITLE.

2 This Act may be cited as the "Technology Adminis-
3 tration Authorization Act of 1995".

4 SEC. 2. AUTHORIZATION OF APPROPRIATIONS.

5 (a) UNDER SECRETARY FOR TECHNOLOGY.—There
6 are authorized to be appropriated to the Secretary of Com-
7 merce for the activities of the Under Secretary for Tech-
8 nology/Office of Technology Policy $9,992,000 for fiscal
9 year 1996.

10 (b) NATIONAL INSTITUTE OF STANDARDS AND
11 TECHNOLOGY.—There are authorized to be appropriated
12 to the Secretary of Commerce for the National Institute
13 of Standards and Technology for fiscal year 1996 the fol-
14 lowing amounts:

15 (1) For Industrial Technology Services,
16 $464,700,000, of which—

1 (A) $330,700,000 shall be for the Ad-
2 vanced Technology Program under section 28
3 of the National Institute of Standards and
4 Technology Act (15 U.S.C. 278n);
5 (B) $130,600,000 shall be for the Manu-
6 facturing Extension Partnerships program
7 under sections 25 and 26 of the National Insti-
8 tute of Standards and Technology Act (15
9 U.S.C. 278k and 278l); and
10 (C) $3,400,000 shall be for the Malcolm
11 Baldrige National Quality Award program
12 under section 17 of the Stevenson-Wydler Tech-
13 nology Innovation Act of 1980 (15 U.S.C.
14 3711a).
15 (2) For Scientific and Technical Research and
16 Services, $264,500,000.
17 (3) For Construction of Research Facilities,
18 $15,000,000.
19 SEC. 3. NATIONAL INSTITUTE OF STANDARDS AND TECH-
20 NOLOGY ACT AMENDMENTS.
21 The National Institute of Standards and Technology
22 Act (15 U.S.C. 271 et seq.) is amended—
23 (1) in section 10(a)—
24 (A) by striking "nine" and inserting in lieu
25 thereof "15"; and

1 (B) by striking "five" and inserting in lieu
2 thereof "10";
3 (2) in section 15—
4 (A) by striking "Pay Act of 1945; and"
5 and inserting in lieu thereof "Pay Act of
6 1945;"; and
7 (B) by inserting "(h) the provision of
8 transportation services for employees of the In-
9 stitute between the facilities of the Institute
10 and nearby public transportation, notwithstand-
11 ing section 1344 of title 31, United States
12 Code," after "interests of the Government";
13 (3) in section 19, by striking "nor more than
14 forty";
15 (4) in section 25(c)—
16 (A) by striking "for a period not to exceed
17 six years" in paragraph (1); and
18 (B) by striking "which are designed" and
19 all that follows through "operation of a Center"
20 in paragraph (5) and inserting in lieu thereof
21 "to a maximum of ⅓ Federal funding. Each
22 Center which receives financial assistance under
23 this section shall be evaluated during its sixth
24 year of operations, and at least once each three
25 years thereafter as the Secretary considers ap-

1 propriate, by an evaluation panel appointed by
2 the Secretary in the same manner as was the
3 evaluation panel previously appointed. The Sec-
4 retary shall not provide funding for additional
5 years of the Center's operation unless the most
6 recent evaluation is positive and the Secretary
7 finds that continuation of funding furthers the
8 purposes of this section";
9 (5) in section 28—
10 (A) by striking "or contracts" in sub-
11 section (b)(1)(B), and inserting in lieu thereof
12 "contracts, and, subject to the last sentence of
13 this subsection, other transactions";
14 (B) by inserting "and if the non-Federal
15 participants in the joint venture agree to pay at
16 least 50 percent of the total costs of the joint
17 venture during the Federal participation period,
18 which shall not exceed 5 years," after "partici-
19 pation to be appropriate,";
20 (C) by striking "provision of a minority
21 share of the cost of such joint ventures for up
22 to 5 years, and (iii)" in subsection (b)(1)(B),
23 and inserting in lieu thereof "and";
24 (D) by striking "and cooperative agree-
25 ments" in subsection (b)(2), and inserting in

1 lieu thereof ", cooperative agreements, and,
2 subject to the last sentence of this subsection,
3 other transactions";
4 (E) by adding after subsection (b)(4) the
5 following:
6 "The authority under paragraph (1)(B) and paragraph
7 (2) to enter into other transactions shall apply only if the
8 Secretary, acting through the Director, determines that
9 standard contracts, grants, or cooperative agreements are
10 not feasible or appropriate, and only when other trans-
11 action instruments incorporate terms and conditions that
12 reflect the use of generally accepted commercial account-
13 ing and auditing practices."; and
14 (F) by adding at the end the following new
15 subsection:
16 "(k) Notwithstanding subsection (b)(1)(B)(ii) and
17 subsection (d)(3), the Director may grant extensions be-
18 yond the deadlines established under those subsections for
19 joint venture and single applicant awardees to expend
20 Federal funds to complete their projects, if such extension
21 may be granted with no additional cost to the Federal
22 Government and it is in the Federal Government's interest
23 to do so.";
24 (6) by redesignating section 31 as section 32;
25 and

1 (7) by inserting after section 30 the following
2 new section:
3 "NATIONAL QUALITY PROGRAM
4 "SEC. 31. A National Quality Program is established
5 within the Institute, the purpose of which shall be to per-
6 form research and outreach activities to assist private sec-
7 tor quality efforts and to serve as a mechanism by which
8 companies in the United States, universities and other in-
9 terested parties, and the Institute can work together to
10 advance quality management programs and to share and,
11 as appropriate, develop manufacturing best practices.".
12 SEC. 4. STEVENSON-WYDLER TECHNOLOGY INNOVATION
13 ACT OF 1980 AMENDMENTS.
14 The Stevenson-Wydler Technology Innovation Act of
15 1980 (15 U.S.C. 3701 et seq.) is amended—
16 (1) in section 11(i) (15 U.S.C. 3710(i))—
17 (A) by inserting "loan, lease," after "de-
18 partment, may"; and
19 (B) by inserting "Actions taken under this
20 subsection shall not be subject to Federal re-
21 quirements on the disposal of property." after
22 "education and research activities."; and
23 (2) by amending section 17(c)(3) to read as fol-
24 lows:

1 "(3) No award shall be made within any category or
2 subcategory if there are no qualifying enterprises in that
3 category or subcategory.".

4 SEC. 5. PERSONNEL.

5 The personnel management demonstration project es-
6 tablished under section 10 of the National Bureau of
7 Standards Authorization Act for Fiscal Year 1987 (15
8 U.S.C. 275 note) is extended indefinitely.

Amend the title to read as follows: "A bill to authorize appropriations for the programs of the Technology Administration for fiscal year 1996, and for other purposes.".

Mr. TANNER. Thank you, Madam Chairwoman.

This amendment, in the nature of a substitute, actually combines——

Mrs. MORELLA. Excuse me, if the gentleman would suspend.

The Clerk will designate the amendment.

The CLERK. The amendment in the nature of a substitute offered by Mr. Tanner to the Subcommittee print.

Mrs. MORELLA. I ask unanimous consent to dispense with the reading of the amendment.

The gentleman may proceed.

Mr. TANNER. Thank you.

This amendment, in the nature of a substitute, actually combines these two bills. I'll explain what I mean by that as follows.

The amendment that we are offering authorizes funding for the Under Secretary for Technology and the National Institute of Standards and Technology, NIST, authorization for NIST programs includes funding for the industrial technology services, the scientific and technical research services, and construction of research facilities.

The overall funding level is $754.1 million, which is within the overall Science and Technology limits set by the conservative coalition. It is therefore consistent with balancing the Federal budget within seven years, and with this Committee's traditional efforts to make sure U.S. industry has the tools it needs to compete in the world market place.

This funding level represents a decrease of $283.9 million or 27 percent from the President's request, and a decrease of $109.7 million, or a 13 percent decrease from the FY '95 allocation.

It is well below the President's revised budget figures. Overall this budget represents a hard freeze to the programs within the Technology Administration.

Funding for the Under Secretary of Technology is held at FY '95 levels and NIST funding for the scientific and technical research and services is held at the FY '95 appropriated level.

Funding for the industrial technology services is provided in three accounts, the Advanced Technology Program, ATP, the Manufacturing Extension Partnership, the MEP program, and the Malcolm Baldridge National Quality Award Program.

Funding levels from the MEP are set at levels and anticipate the amount required to pay for the grants awarded in FY '95 and in previous years, as the Chairman of the Full Committee has indicated he would like to see.

NIST has reported that funding totaling approximately $341 million will be required for FY '96 to fund grants awarded in FY '95 and in previous years.

My amendment authorizes $330.7 million for the ATP account. NIST has also reported they will need $132.6 million in FY '96 to continue existing grants. Under the Manufacturing Extension Partnership program we authorize $130.6 million. Funding for the Malcolm Baldridge National Quality Award stays at the FY '95 level.

The account for the construction of research facilities is funded at $15 million, well below the Chairlady's mark. This funding is a funding level necessary to maintain laboratory facilities at the Gaithersburg, Maryland, and Boulder, Colorado campuses.

NIST's current unexpended balances in its construction account are sufficient to fund the construction of facilities outlined in the five-year plan in 1996.

In 1995, the GAO estimates that NIST will carry over $168 million in the construction account. This carryover is sufficient to build the Advanced Technology Laboratory at the Gaithersburg campus that NIST plans to build this year.

Current construction plans at the Boulder campus are on hold because of environmental considerations.

All of the language in our substitute is the same except for the following three instances.

Section 3 amendment to Section 25[c] of the NIST Act. This amendment replaces the arbitrary six-year cut off on Federal support of individual manufacturing extension centers. This amendment allows for continued Federal support, which cannot exceed one-third of a MEP center's total cost.

Continued funding after six years is contingent upon an evaluation by an independent evaluation panel, and only when the Secretary of Commerce determines continued Federal contributions further the purpose of the MEP program.

This language is the same as contained in HR 820, which passed the House last year.

Section 3, new Section 31 of the NIST Act, the National Quality Program. This amendment would establish a national quality program at NIST. NIST plans to undertake a quality research and outreach component to begin the transformation of the Baldridge award program into a full-fledged quality improvement program.

Research would be conducted in collaboration with U.S. universities and businesses. This provision was requested by the National Institute of Standards and Technology.

And finally Section 4, amendment to Section 17[c][3] of the Stevenson-Wydler Act. This amendment retains authority in the Secretary of Commerce to add new categories to the Malcolm Baldridge National Quality Award. It replaces the arbitrary limit of four awards per category with a requirement that no awards be given in any category where there are no qualifying enterprises.

The intent is to ensure that companies and institutions applying for the award are striving to meet the standards set out in the award and are striving to meet those rather than competing against one another, or a limited number of awards.

Mrs. MORELLA. The gentleman's time has expired.

Mr. TANNER. And this modification is recommended by the Baldridge Award Board.

Thank you very much.

Mrs. MORELLA. For someone from Tennessee, you can talk very fast.

I thank you for offering the amendment.

I know that it's a well intentioned, amendment in the form of a substitute.

I must however oppose the distinguished ranking minority member's amendment. This Subcommittee in all practicality has been provided a budget of $342.7 million, and the gentleman's amendment would far surpass the budget allocation.

His amendment seeks to authorize $754.192 million, which is 120 percent above our allocation.

As we begin the process of balancing our budget, this authorizing Committee is being bound by the same budget numbers which is affecting the Appropriations Committee. It may not the budget we wanted but the budget was adopted in terms of the resolution, and that's what the Appropriations Committee is working with.

For us to accept the gentleman's amendment would be unrealistic to the current fiscal situation. We'd be in danger of shirking our responsibility to set policy guided by our budget numbers and I think the Appropriations Committee would dismiss our authorization completely.

So unless our allocations change, the House passed budget resolution is established as our guide. The amendment will exceed not only the Subcommittee's allocation but the budget resolution for the Under Secretary for Technology's office, the ATP, the MEP, and the Baldridge award program.

Incidentally, I will be offering an amendment to restore for the Malcolm Baldridge award, which is consistent with part of your substitute, and I would certainly question whether $10 million for the construction of facilities would be adequate.

But all things being considered, while I appreciate very much the points that the ranking member has raised, I cannot support this amendment.

I would now ask if there are any other members of the Subcommittee who would like to speak on this amendment.

Mr. Calvert?

Mr. CALVERT. Thank you, Madam Chairman.

I just want to express my agreement with you that we need to move forward. As the Chairman suggests, we risk much worse consequences if we aren't able to move the bill. As you've indicated, I think the best thing that we can do for American business is to balance the budget, bring down interest rates, make an R&D tax credit permanent, and those types of activities will, in the long run, work for the benefit of business.

With that, Madam Chairman, I've completed.

Mrs. MORELLA. Thank you very much, Mr. Calvert.

I'd now like to recognize Mr. Brown, a very prominent member of this Committee.

Mr. BROWN. Thank you very much, Madam Chair.

I rise in support of the amendment by the distinguished ranking minority member of the Subcommittee.

I would like to lay out, in fairly strong terms, what I think is happening here.

First of all, if the gentlelady's statement is correct, that we have exceeded our allocation, and if that statement were anything more than a fiction, she could rule this amendment out of order because that would be the situation if it actually did violate the budget, or any legally binding 602[b] allocation.

The fact is it does not. The gentlelady cannot rule the amendment out of order, therefore, but both she and others supporting her position persist in the fiction that we have some sort of an allocation which we cannot exceed here.

Let me explain why that's a fiction.

The Budget Committee does not make allocations at the level of the items contained in this budget. They make an allocation to the budget function 270 and the amounts that Mr. Tanner's amendment proposes fall well within the amounts included in that.

What is actually happening here is that the Chairman of the Full Committee, who has announced his opposition, and it's a longstanding opposition, to both the Advanced Technology Program and the Manufacturing Extension Program, has, on his own discretion, his own initiative, allocated to each of the Subcommittees of this Committee, an amount which is sufficient to fund the programs that he thinks are desirable.

Since he does not think that the Advanced Technology Program and the Manufacturing Extension Program are desirable, he did not, in his wisdom, allocate sufficient funds to fund those two programs. And did so under the subterfuge that he had some sort of authority to make these kind of allocations.

Now he does have that authority but only as long as he has the mandate of heaven. The mandate of heaven happens to be the vote of the members of the Subcommittee. At any point, we could, with perfect legality, decide that Mr. Walker's policies are not what we want to support, and we could adopt the authorizing bill that would include those amounts that we wanted to.

I think I've correctly stated the situation. I'd be perfectly glad to provide a parliamentary opinion confirming what I've said, if the gentlelady would like, or any other form of legal opinion that would satisfy her.

But what bothers me more is that, behind all this, there is going to be a subterfuge perpetrated by the Chairman of the Full Committee that he will accept two bills, one of which funds the base program in this, and the other funds the Advanced Technology and Manufacturing Extension Programs with some language such as, such others as may be required to be appropriated, or something of that sort, and then he will take up the base program bill but will not even take up the other bill.

In that sense, he's perpetrating a fraud because that circumvents the will of this Subcommittee to at least indicate that we support these programs at some level.

If I'm misinformed, I will profoundly and profusely apologize to the gentlelady and Mr. Walker, and they can make me out a liar by merely taking up both bills and passing them out, and I hope they will. But that's not the information that I have.

And because this whole process is based on that kind of fabrication, a false assertion that there's something binding about the numbers that Mr. Walker has assigned to the Subcommittee and in a sense, an effort to subvert the process by not reporting out a bill which would at least recognize the existence of the other two programs, I'm going to be very strong, maybe unduly strong. I hope not, but I'm going to be very strong in calling attention to what's going on here, and in supporting the alternative presented by Mr. Tanner as the reasonable, procedurally correct, historically precedented method of dealing with the situation that we have.

And I thank the gentlelady.

Mrs. MORELLA. I thank the gentleman. I know that he speaks from his heart with great earnestness about this process but quite

frankly, all of the Subcommittees of the Science Committee and all of the Subcommittees of other Committees are faced with this kind of situation where they have all been given an allocation.

And I know the budget resolution is in fact no more than that, a guidepost. It is not absolutely binding. But if we can operate under it, as we should, as we have felt the need in order to arrive at a balanced budget, and I'm pleased the President has decided that we need to balance the budget too, we must look at these guidelines.

So that's what it is. And when we get such sums as may be appropriated, we are in hopes that maybe the Appropriations Committee can find some money to put into it, hoping that when the Conference Committee meets, that it will be able to find some money to allocate to it.

But we are demonstrating some priorities, and I think there's no doubt that the major priority deals with the core programs of NIST. And these core programs, in this Subcommittee mark, are going to be increased every year three percent. That's far more than is happening in so many other areas with the budget.

And so I respectfully submit that I appreciate very much the passion of the ranking member's statement made. I also feel that MEP and ATP are very important and we hope to keep them going, but we have to look at the priorities, we have to look at the realities.

It's kind of what we call sort of universal suffering that everyone is going through.

Mr. BROWN. Would the gentlelady yield briefly to me?

Mrs. MORELLA. Yes, I shall.

Mr. BROWN. I know the gentlelady is sincere in what she said, and believes that what she stated is factual. But I serve on one other Committee, the Agriculture Committee. There is no process similar to what she has described here, and in fact I have inquired of other Committees and I know of no other Committee which has gone through the process of setting forth 602[b] authorization allocations.

Now, if I am misinformed, I would like the gentlelady to correct me.

On the other hand, if she has been misinformed, I know that she would want to correct her statement, and I believe that since she offered the statement as a statement of fact, presumably it could be verified.

Mrs. MORELLA. Well, I offer it, Mr. Brown, as a statement of fact, as I understand the situation in terms of arriving at the budget balancing by 2002 in accordance with the budget resolution that, whether you agree with it or not, did pass and is one that we're being guided by.

So if it is the modus operandi of this Committee, and my understanding is that other Committees have been given a figure too that they should not surpass, if they want to be in the negotiating situation with the Appropriations Committee.

Mr. CALVERT. Would the Chairman yield?

Mrs. MORELLA. Yes, I'd be pleased to yield.

Mr. CALVERT. I can certainly agree with the Chairman that in fact we have in fact been given targets as far as what we need to do on the various authorizing committees that I serve on and at-

tempting to meet those targets and working with the appropriating committees to make sure that we get to the target which we need to get at to balance the budget.

And at this time, that is our overriding concern. And at the same time, maintaining what's necessary in all the authorizing committees to maintain the function.

With that, thank you.

Mrs. MORELLA. Would you yield back the time?

Is there any further discussion on this amendment in the nature of a substitute?

Mr. McHale?

Mr. MCHALE. Thank you, Madam Chair.

I vigorously support the substitute as proposed by Mr. Tanner. I would like to join in the remarks previously made by Mr. Tanner and by Mr. Brown.

Let me just say, at the outset, that I have an extremely high regard for the Chair of this Subcommittee. And I don't say that gratuitously. I have watched your performance on this Subcommittee and on the Full Committee during the two and a half years that I've been in Congress, and have a great deal of admiration for you.

I say that because I'm about to vigorously attack your legislation, and I would not want that attack to be interpreted as an attack upon you.

This is not about balanced budgets. This is about smoke and mirrors. And I think Mr. Brown captured it very well. I'm one Democratic member of Congress who voted for a balanced budget amendment. I voted for the line item veto. I supported a balanced budget proposal when brought before the House.

I think the Chair of the Subcommittee accurately characterized what this is about and perhaps inadvertently, when you make reference to priorities, without getting into a renewed debate on the budget, the simple fact of the matter is that most members on your side of the aisle supported a new tax credit for those with incomes up to $200,000, and that will cost the United States Treasury, if enacted, $281 billion over the next seven years.

Many of us on this side of the aisle, including those of us who supported a balanced budget, did not support that new tax credit.

In order to accommodate the cost of that tax break reflected in the budget, we are now making decisions that I think are profoundly unwise and reflect priorities that we do not share.

Let me conclude with this, if I may, Madam Chair.

We on this side of the aisle believe in fiscal restraint, but we don't believe that we should gut our technology programs simply to satisfy the cost of a tax credit that we believe to be inequitable and unwise.

I believe that NIST's core programs must be supported. But for those of us who have NIST programs in our districts, programs that are working well, programs that are bringing technology to the marketplace, it is extremely frustrating to hear that those programs must be sacrificed in order to satisfy budget priorities that are not ours.

I would, in a heartbeat, give up a tax credit that most Americans have now come to reject, in order to keep the economic develop-

ment programs in my district supported by Democrats and Republicans alike that work.

And so, as you shape the debate and talk about balanced budgets, recognize that there are those of us who are equally committed to a balanced budget, but who do not share your commitment to a $281 billion tax credit that will result in the destruction of many of our most important technology programs.

Mrs. MORELLA. Thanks, Mr. McHale. And I don't take any of this personally. I understand and I appreciate the good words that you offered with regard to my service.

Frankly, I also voted against that tax cut, but it did pass and we now have a budget resolution which incorporates that, and there is a process that we're still going through, a process that will end up with a conference report which will come back, and maybe there will be some moneys that would be put in.

This is why the wording of that second bill that comes before us. So that's the reality.

I'm wondering if there's anyone else that would like to comment before we call for the vote on this amendment in the nature of a substitute?

I know my colleagues very well, so I know they're going to respect brevity too.

Ms. Lofgren, I think you had your hand up.

Ms. LOFGREN. Yes. Just briefly.

Although there's not a huge audience or cameras here, it's a fairly low key markup, I really believe that this vote about to happen is a key moment in the future of the economy of this country.

I think all of us here are struggling to do the very best we can for America, but that calls out leadership and taking chances sometimes.

And I'm mindful that if we do not approve Mr. Tanner's amendment that the chances are overwhelming that we will never have an opportunity to take up the Advanced Technology Program in the Full Committee, given the Chairman's view and apparent indication that he will not take up the second bill.

I would note also that putting a specific amount of money, as Mr. Tanner has done in his amendment, is fiscally responsible, and I think, compared to such sums as shall be appropriated, is a more prudent approach to the budget.

You know, I passed out a letter from a group called Joint Ventures Silicon Valley. It is made up of all the high technology companies in Silicon Valley, and I submit that for the record.

[The letter follows:]

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Joint Venture
Silicon Valley Network

RECEIVED
MAY 30 1995
Zoe Lofgren, M.C.
Washington, D.C.

The Honorable Zoe Lofgren
118 CHOB
U.S. House of Representatives
Washington, DC 20515

Dear Representative Lofgren:

Joint Venture: Silicon Valley is a network of leaders from business, government, education and the community dedicated to economic vitality and education. The Joint Venture Board recently approved the enclosed White Paper on the "Role of Federal Investment in Precompetitive R&D".

As Congress reexamines the role of government during the debate over the budget, it is important to remember the critical role of federal government investment in research and development. Since World War II, this federal investment created the foundation for our technological progress and economic competitiveness. Our White Paper summarizes some lessons from federal investment in Silicon Valley.

Silicon Valley's success is due to a long-term partnership between industry and government that has led to the commercialization of many leading-edge technologies. While entrepreneurs created revolutionary products, federal investment in R&D in cooperation with industry led to advanced computing, high speed workstations, 3-D imaging, wireless communications and the Internet. Federal matching grant support for the industry-led U.S. Display Consortium is a current example of the importance of this partnership.

The gap between basic research and commercialization was identified by President Reagan's Commission on Industrial Competitiveness led by John Young, former CEO of Hewlett-Packard. President Bush's Science Advisor Allen Bromley developed a federal strategy for supporting "precompetitive" R&D in partnership with industry. In a bipartisan effort, President Clinton has continued this technology strategy begun in prior Republican Administrations.

The key to our future is investment by both the private and public sectors in technologies critical for our competitiveness. Rather than reversing the federal role in precompetitive R&D, the federal government should establish clear criteria for determining when that role is appropriate. Our White Paper outlines some common sense criteria to consider when developing federal precompetitive R&D investment policy. Please consider our viewpoint when making your budget decisions.

Sincerely,

Becky

Rebecca Q. Morgan
President/CEO

RQM/DCH/ik

BOARD OF DIRECTORS

The Role of Federal Investment in Precompetitive R&D

Joint Venture: Silicon Valley Network
&
Defense/Space Consortium

White Paper prepared by

Doug Henton,
Joint Venture: Silicon Valley Network
&
Tim Quigley,
Defense/Space Consortium

May 1, 1995

The Role of Federal Investment in Precompetitive R&D

Summary

Federal investment in R&D plays a critical role in the growth of America's technology industries. Silicon Valley was created by a unique partnership between industry and government that helped establish the technology infrastructure necessary for competitive enterprises to flourish in that region. Understanding the role of federal R&D investment is essential for formulating future federal technology policy.

Bridging the "Precompetitive" Gap

Studies of the R&D process identify a gap between basic research and commercialization that hinders the application of technology in commercial products. The reasons for this R&D gap are clear. Individual firms cannot capture the full value of their investment in "precompetitive" R&D because the benefits are spread to other firms. While there is a clear role for the federal government in basic research and a clear rationale for individual firms to invest in product commercialization, the area of "precompetitive R&D" is less clear.

Beginning with President Reagan's Commission on Industrial Competitiveness chaired by former Hewlett-Packard CEO John Young through President Bush's Office of Science and Technology led by Allen Bromley, there has been an emerging consensus that the federal government should play a role in fostering precompetitive R&D. The federal government should provide matching grants to consortia of firms within specific technology areas to help bridge the gap between basic research and commercialization.

The rationale for federal investment is that an industry-government partnership can create public benefits while lowering the cost of technology development and thus speeding up the commercialization process. Examples include Sematech and U.S. Display Consortium. The argument is that without government involvement, the U.S. will fall behind foreign competitors because our firms will under invest in risky precompetitive R&D. In both cases, there was a clear public benefit since the core technologies promoted both national security and economic competitiveness. In general, the federal government should invest in precompetitive R&D when the public returns from the R&D investment exceed the private returns.

Lessons from Silicon Valley

This industry-government partnership for precompetitive R&D has evolved over a number of decades in Silicon Valley. The federal government played a critical role in the development of the semiconductor, computer and communications networks. Driven by a need for defense and space applications of integrated circuits in the 1950s and 1960s, this partnership led by DARPA flowered in the 1970s and 1980s with the development of advanced computing, high-speed workstations, 3-D imaging and wireless communications. What we now call the Internet was the result of decades of collaboration between industry and the federal government in precompetitive R&D in dual-use technologies in Silicon Valley and other technology regions of America. DARPA's support for reduced instruction set computer (RISC) architectures spawned a new generation of commercial firms in the Valley, including global companies like Sun Microsystems and Silicon Graphics.

Lessons can be learned from Silicon Valley about the nature of this precompetitive partnership and its impact on the creation of technology industry clusters:

- *Industry driven:* The partnership was driven by industry and led by leading-edge technology firms in the Valley. Government acted primarily as a purchaser of state-of-the-art technology.
- *Specialized Infrastructure:* The key role for government was helping to create the technology infrastructure required to support advanced technology clusters. For example, support for advanced research at the national labs and through the universities created the technology expertise that the commercial firms used.
- *Skilled Talent:* The development of skilled talent through ARPA-funded research at universities such as Stanford and UC-Berkeley as well as research institutions such as SRI International provided the intellectual capital that has fueled innovation in Silicon Valley.
- *Collaboration:* Despite the image of fierce entrepreneurship, Silicon Valley grew through collaboration between industry and universities, between industry and the federal government and within industry. The real success stories of Silicon Valley, including the development of high-speed workstations, 3-D graphics and computer networking, are all the products of collaboration.

Policy Implications

Federal technology policy should not abandon its support of precompetitive R&D. The rationale for this policy has been clearly established during two Republican Administrations and in the first two years of the Clinton Administration.

Rather than backing away from a federal role in precompetitive R&D, the federal government should be establishing clear criteria for determining when that role is appropriate. At a time when global competition is increasing and the nation's future well-being depends on continuing investments in technology, the federal government should be increasing its role in precompetitive R&D that will create high-paying jobs.

The following criteria should be considered when developing federal precompetitive R&D policy:

- Focus on critical technologies that have strategic economic and national security importance.
- Invest in precompetitive technologies where there is strong industry demand and involvement, preferably through industry-led consortia that can share the risk.
- Limit the federal role to matching grants conditioned on industry investment.
- Where possible, involve regionally based industry-led consortia to promote technology which leads to job creation and global competitiveness.
- Build in benchmarks and reasonable milestones to measure tangible results.

Following these criteria should ensure that the federal investment in precompetitive R&D will achieve maximum results. Decades of experience with ARPA and in Silicon Valley suggest that these criteria will produce results both for the nation and for the regional technology clusters which are the basis for our competitiveness.

This White Paper was approved by the Board of Directors of Joint Venture: Silicon Valley Network. The policy positions approved by the Joint Venture: Silicon Valley Network Board reflect the consensus or clear majority of the individual board members and should in no way be interpreted as reflecting the official position of other organizations with whom JVSV board members are affiliated.

Ms. LOFGREN. As you can see, in the third paragraph, here is their statement.

Silicon Valley's success is due to a long-term partnership between industry and government that has led to the commercialization of many leading-edge technologies.

It's just straight out. Silicon Valley would not have been successful but for the partnerships, and they outline in their White Paper suggestions for frameworks.

I would draw attention to the amount of money per state. This is $318 million, almost $319 million to California, and we can look at what the government portion is, but more than half is from industry.

Those industries have, with us, decided to invest in the future. They can't satisfy their shareholders by doing a long-term pre-competitive investment. They can't be prudent.

I have had CEOs of major companies tell me that they would rather give up the investment tax credit for government funded research because they can't do it, they can't justify it to their taxpayers to do the kind of research that would yield results in ten years instead of 18 months, which is the product cycle.

I would just urge that we keep hope alive for our economy. Take this step, risky as it may be, and see if we can't help our economy on into the next decade and, I would argue, the millennium.

Thank you, Madam Chairman.

Mrs. MORELLA. I thank you.

Hearing no objection, your statement will be included in the record. That is, the letter offered by Joint Ventures Silicon Valley.

I know recognize Congresswoman McCarthy.

Ms. MCCARTHY. Thank you, Madam Chairman.

I appreciate your request for brevity. I do have remarks to be submitted into the record in support of the Tanner substitute.

Let me just summarize by saying I believe we have a choice here in this Congress. I supported the Conservative Coalition Budget which would have reached a balanced budget by the year 2002, but it would not abandon our investment in our children and our small and medium businesses and our economic leadership and in our future.

I really think if we are to be truly faithful to our children, we plan for their future by balancing the budget fairly without eliminating the programs that are successful that will enable our economy to expand and our small businesses to thrive.

This measure, without the Tanner substitute, is extremely detrimental to my state and to my district. There are success stories out there that ought to be emulated and expanded. And I think we choose the wrong approach. We've become pennywise and pound foolish, so I would urge adoption of the Tanner substitute.

And I thank you Madam Chair.

[The prepared statement of Ms. McCarthy follows:]

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Insert T-3

Congress of the United States
House of Representatives

SCIENCE COMMITTEE
SUBCOMMITTEE ON ENERGY AND ENVIRONMENT
SUBCOMMITTEE ON TECHNOLOGY
SMALL BUSINESS COMMITTEE
SUBCOMMITTEE ON REGULATION AND PAPERWORK
SUBCOMMITTEE ON TAX AND FINANCE

STATEMENT OF REPRESENTATIVE KAREN McCARTHY
Technology Subcommittee, Committee on Science

Mark-up on Technology Administration and the National Institute of Standards and Technology

Madam Chairwoman, my concern with this markup is the same problem I have seen since my arrival in Washington. I support balancing the budget using fairness and the setting of smart priorities. Removing the extramural programs of NIST from this mark-up and dealing with these programs is not fair or smart. The Applied Technology Program and the Manufacturing Extension Program promote economic success in small to medium size businesses and a sound return on investment.

The Applied Technology Program facilitates cooperation between the private and public sector in the investment seed money required to develop innovative technology and success in today's dynamic market place. ATP invests in technology which might not otherwise be explored. The Manufacturing Extension Program, co-funded by state and local governments, has provided the technical expertise which can be the difference between a chapter 11 and a business which succeeds. The Mid-America Manufacturing and Technology Center (MAMTC), which provides services through my district and much of the mid-west, has increased annual sales for its clients by $10,500,000 and decreased annual costs by $7,556,000. The average wage of the 90 jobs directly created or retained by MAMTC is over $14 an hour. And yet, despite the endless testimonials on the House floor about the power of employment to change a person's life, we are about to eviscerate a relatively inexpensive program that creates jobs not through an entitlement or a public works program, but through the enhancement and growth of existing businesses. In my home state, an Allied Signal, Southwestern Bell, and dozens of smaller manufacturers such as Clay and Bailey, American Echo, Package Service Company, Precession Fabricators, ITC Plastics, Dematech, Midland Lithographing, Praxair and Butler Manufacturing have benefitted from these programs.

As a country our investment in science and technology development is our promise to our children. To abandon our leadership in the world's economy by failing to see our future is tied directly in what we invest today in technology would break with that promise. We must be bold not only in fiscal austerity, but also in seeking knowledge of what we don't know. If we are truly faithful to our children, we plan for their future by balancing the budget fairly and without eliminating those programs

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that are successful and which enable our economy to expand and our small businesses to thrive.

I supported the conservative coalition budget, which would balance the budget by 2002 without this wholesale abandonment of our investment in our children, our small and medium businesses, our economic leadership and our future. The extramural programs of NIST are not the final answer to unemployment or underemployment, and are not the only answer to our need for enhanced technology, but NIST extramural programs represents an inexpensive, innovative start. The question is not "Can we afford ATP and MEP?", the question is "Can we afford to do without a program like ATP and MEP?" I strongly urge my colleagues to support the Tanner substitute, which allows a level of fairness to our budget cutting exercise, while preserving effective programs which directly assist small businesses.

Mrs. MORELLA. Thank you, Ms. McCarthy. Your full statement will of course be included in the record.

Is there further discussion on this amendment in the nature of a substitute?

[No response.]

Mrs. MORELLA. If not, I'm going to call the question. The vote occurs on the amendment offered by Mr. Tanner.

All in favor, say aye.

[Chorus of ayes.]

Mrs. MORELLA. All opposed?

[Chorus of nays.]

Mrs. MORELLA. The ayes have it, the nays have it, and I would ask for the Clerk to call the roll.

The CLERK. Mrs. Morella?

Mrs. MORELLA. No.

The CLERK. Mrs. Morella votes no.

Mr. Calvert?

Mr. CALVERT. No.

The CLERK. Mr. Calvert votes no.

Mrs. Cubin?

Mrs. CUBIN. No.

The CLERK. Mrs. Cubin votes no.

Mr. Gutknecht?

Mr. GUTKNECHT. No.

The CLERK. Mr. Gutknecht votes no.

Mrs. Seastrand?

Mrs. SEASTRAND. No.

The CLERK. Mrs. Seastrand votes no.

Mrs. Myrick?

Ms. MYRICK. No.

The CLERK. Mrs. Myrick votes no.

Mr. Tiahrt?

Mr. TIAHRT. No.

The CLERK. Mr. Tiahrt votes no.

Mr. Walker?

Mr. WALKER. No.

The CLERK. Mr. Walker votes no.

Mr. Tanner?

Mr. TANNER. Aye.

The CLERK. Mr. Tanner votes yes.

Mr. McHale?

Mr. MCHALE. Yes.

The CLERK. Mr. McHale votes yes.

Ms. Johnson?

Ms. JOHNSON. Aye.

The CLERK. Ms. Johnson votes yes.

Mrs. McCarthy?

Mrs. MCCARTHY. Aye.

The CLERK. Mrs. McCarthy votes yes.

Ms. Lofgren?

Ms. LOFGREN. Yes.

The CLERK. Ms. Lofgren votes yes.

Mr. Brown?

Mr. BROWN. Yes.

The CLERK. Mr. Brown votes yes.

Mrs. MORELLA. Will the Clerk announce the votes?

The CLERK. Madam Chair, the roll call vote is yeas six, noes eight.

Mrs. MORELLA. Then the noes have it. The amendment in the nature of a substitute as offered by Mr. Tanner is rejected.

Are there any other amendments?

Ms. JOHNSON. Yes.

Mrs. MORELLA. Ms. Johnson has an amendment. I recognize her to offer her amendment.

[The amendment follows:]

AMENDMENT TO THE SUBCOMMITTEE PRINT OFFERED BY MS. EDDIE BERNICE JOHNSON OF TEXAS

Page 2, strike line 1 and insert in lieu thereof the following:

1 **TITLE I—GENERAL**
2 **AUTHORIZATIONS**

3 **SEC. 101. AUTHORIZATION OF APPROPRIATIONS.**

Page 3, line 15, redesignate section 3 as section 102.

Page 4, line 14, redesignate section 4 as section 103.

Page 5, line 8, redesignate section 5 as section 104.

Page 5, after line 12, insert the following new title:

4 **TITLE II—INDUSTRIAL**
5 **TECHNOLOGY SERVICES**

6 **SEC. 201. AUTHORIZATION OF APPROPRIATIONS.**

7 There are authorized to be appropriated to the Sec-
8 retary of Commerce for the Industrial Technology Services
9 activities of the National Institute of Standards and Tech-
10 nology for fiscal year 1996—

1 (1) for the Advanced Technology Program
2 under section 28 of the National Institute of Stand-
3 ards and Technology Act (15 U.S.C. 278n), such
4 sums as may be appropriated; and
5 (2) for the Manufacturing Extension Partner-
6 ships program under sections 25 and 26 of the Na-
7 tional Institute of Standards and Technology Act
8 (15 U.S.C. 278k and 278l), such sums as may be
9 appropriated.

10 SEC. 202. NATIONAL INSTITUTE OF STANDARDS AND TECH-
11 NOLOGY ACT AMENDMENTS.

12 Section 28 of the National Institute of Standards and
13 Technology Act (15 U.S.C. 278n) is amended—
14 (1) by striking "or contracts" in subsection
15 (b)(1)(B), and inserting in lieu thereof "contracts,
16 and, subject to the last sentence of this subsection,
17 other transactions";
18 (2) by inserting "and if the non-Federal partici-
19 pants in the joint venture agree to pay at least 50
20 percent of the total costs of the joint venture during
21 the Federal participation period, which shall not ex-
22 ceed 5 years," after "participation to be appro-
23 priate,";
24 (3) by striking "provision of a minority share of
25 the cost of such joint ventures for up to 5 years, and

1 (iii)" in subsection (b)(1)(B), and inserting in lieu
2 thereof "and";
3 (4) by striking "and cooperative agreements" in
4 subsection (b)(2), and inserting in lieu thereof ", co-
5 operative agreements, and, subject to the last sen-
6 tence of this subsection, other transactions";
7 (5) by adding after subsection (b)(4) the follow-
8 ing:
9 "The authority under paragraph (1)(B) and paragraph
10 (2) to enter into other transactions shall apply only if the
11 Secretary, acting through the Director, determines that
12 standard contracts, grants, or cooperative agreements are
13 not feasible or appropriate, and only when other trans-
14 action instruments incorporate terms and conditions that
15 reflect the use of generally accepted commercial account-
16 ing and auditing practices."; and
17 (6) by adding at the end the following new sub-
18 section:
19 "(k) Notwithstanding subsection (b)(1)(B)(ii) and
20 subsection (d)(3), the Director may grant extensions be-
21 yond the deadlines established under those subsections for
22 joint venture and single applicant awardees to expend
23 Federal funds to complete their projects, if such extension
24 may be granted with no additional cost to the Federal

1 Government and it is in the Federal Government's interest

2 to do so.".

Ms. JOHNSON. Thank you, Madam Chairman.

Mrs. MORELLA. The Clerk will designate the amendment, please.

The CLERK. Amendment to the Subcommittee print offered by Ms. Eddie Bernice Johnson of Texas.

Mrs. MORELLA. I ask unanimous consent that the amendment be considered as read and to dispense with the reading.

Mr. CALVERT. Madam Chairman, I would like to reserve a point of order.

Mrs. MORELLA. Yes, I recognize the gentleman.

Mr. CALVERT. Madam Chairman, I'd like to reserve a point of order.

Mrs. MORELLA. I now recognize the author of the amendment, Ms. Johnson.

Ms. JOHNSON. Thank you, Madam Chairman.

The amendment which I offer to the Subcommittee is very plain in nature. Simply stated, the amendment makes sure that the Full Committee has the opportunity to consider the external programs of the National Institutes of Science and Technology.

Although I understand that this Subcommittee is considering this as legislation related to these programs, the Full Committee has shown no inclination to do so. The schedule passed out for the next week's schedule of the Full Committee does not reflect any intent to hear the Committee report on the other programs, external programs.

My amendment is simply to attempt to change that. The ATP program, in particular, provides a valuable service to many states and especially to my home state.

For example, 38 organizations in the State of Texas have been participants and 22 different ATP projects awards to single applicant companies and prime companies in joint ventures have a total investment of $38.8 million in the State of Texas.

My state is just one example of the work done through ATP. All across the country, cooperation between the Federal Government and industry has led to advancements in commercial technologies. These awards are not corporate welfare. Rather, the ATP is a valuable resource which assists the American economy in its progression into the next century.

Regardless of any of our opinions, the ATP and other programs which the Institute of Standards controls, the Full Committee should be given the opportunity to consider these programs and vote up or down on whether they should be continued.

As we can all see from the Full Committee markup schedule, the intent is not there. Only the American Technology Advancement Act is scheduled to be marked up by the Full Committee.

The Act which authorizes the external programs is not scheduled. I simply want to combine these programs with very similar language, as the Chair's language, to put these bills together so that they can be heard in Full Committee.

That's my only intent, and I thank you Madam Chairman, and urge adoption of my amendment.

Mrs. MORELLA. I thank the gentlewoman from Texas. I must oppose the gentlewoman's amendment.

As I've stated, we are reporting on two separate bills because it's my intention to favorably report out authorizations for the NIST

laboratory functions, as well as the Extramural Advanced Technology Program and the Manufacturing Extension Partnership.

The bills have been divided really to send a signal that NIST core funding and construction must be maintained as the first priority, and by moving the bills on two separate tracks, it would permit the appropriators, if they so choose, the ability to fund the extramural programs.

However, since the Subcommittee is reporting out the two bills with a set budget cap, the two bills are necessary to demonstrate to the appropriators the prioritization of the funding. I believe that core laboratory and construction funding must take precedence before funding ATP and MEP.

And since it's the intent of the Chair to address these extramural programs in the second Subcommittee print that will immediately follow consideration of this current bill, I must oppose the amendment.

I believe that given our present budget situation, the course that we're taking today is the best method to fund the core programs and to ensure the best climate and environment for NIST's extramural programs.

Do I have any further discussion?

Yes, Mr. Tanner?

Mr. TANNER. Madam Chairman, I couldn't agree with what you said more, were it not for the fact that the second bill is not on the Committee printout for consideration next week.

Now what we have done, and what Ms. Johnson has done is to try to incorporate your language, not hers, your language in the second bill to say to give to the appropriators or whoever. Our interest in these programs, and to say that we're going to move on two separate tracks when the second bill is not even going to be heard by the Full Committee because of, I don't want to be too strong, but because of the dictatorial policies of the Chairman of the Full Committee, it defies logic.

What we've done in this amendment, if you don't like my amendment, because you've got language in there and numbers in there, at least in this amendment, all we say is, such sums as may be appropriated. But we do get it hopefully before the Full Committee.

This is out of desperation, the only chance we have to get these programs to the Full Committee level. If we don't adopt this, we haven't put in any numbers, we don't violate your budget resolution, thoughts and desires in this regard. It's just simply a matter of desperation to get these programs at least to the Full Committee level.

Mr. MCHALE. Madam Chair?

Mrs. MORELLA. The Chair recognizes Mr. McHale.

Mr. MCHALE. Madam Chair, rarely do I quote the Speaker of the House with approval, but I'd like to do so this morning.

[Laughter.]

Mr. MCHALE. I'll speak slowly so this ends up on the record.

Two days ago, the Speaker of the House, Newt Gingrich, told the breakfast meeting of the Georgia Conventional Delegation that the NIST MEP program, quote, "seemed like a good program to him", end of quote. And also said that MEP was worthy, and I'm quoting again, "MEP was worthy of careful consideration." End of quote.

Let's be intellectually honest. The simple fact of the matter is that if we don't pass the Johnson amendment, MEP will not receive careful consideration. It will receive brief, superficial consideration in this Subcommittee and then it will die a quiet death, without an opportunity for real debate, real discussion, and from my point of view, adequate funding.

We cannot allow that to happen.

Speaker Gingrich was correct. MEP is worthy of careful consideration. Only by passing the Johnson amendment can we guarantee that it receives it. I urge support for the Johnson amendment.

Mrs. MORELLA. I thank the gentleman for his comments on this amendment.

All I can say is that this Subcommittee will be reporting out a bill that will state such sums as may be appropriated for both the ATP program and the MEP program.

My understanding is the Full Committee will be discussing this bill. It is not on the roster for next week because the Chairman's plan is that it will not be considered next week, but at some point it will be, and it will be sent off.

And with this Committee, by indicating that we feel that there should be some continuation of these two programs, I think we're doing the right thing.

I believe the Speaker's comments will certainly be very valuable and the appropriators and perhaps even finding more money for programs of this nature.

Mr. MCHALE. Madam Chair, parliamentary inquiry.

I'm encouraged by your comments that it will be considered by the Full Committee. You indicate that at some point. Do you have any indication of when that point would be?

Mrs. MORELLA. I am not certain as to the exact point. I'd be speculating to mention the specific date.

Mr. MCHALE. Could I invite you to speculate?

[Laughter.]

Mrs. MORELLA. I've learned around here that you never prognosticate without something in writing, and even there, there's never a total assurance.

Mr. MCHALE. Thank you, Madam Chairman.

Mr. BROWN. Madam Chairman?

Mrs. MORELLA. Yes, Mr. Brown is recognized.

Mr. BROWN. I must have the last word, Madam Chairman.

Madam Chairman, I don't want to rehash the issue before us. I have such high respect for the Chair, and I know her support for the programs under consideration that I'm not even going to engage in haranguing her over the need to take stronger actions for these programs.

But what I am going to ask, and I pray for the favorable consideration of the chair, is that on the key point which she has relied upon for her strategy here, namely that she is operating under a mandate to live within a 602[b] authorization allocation which precludes her from adequately funding the other programs which are going to be in the second bill, and her assertion that this is a proper and presumably legal process which other Committees have followed.

I would respectfully request her consent to a direction to the joint minority and majority counsel of the Committee to make a survey of the degree to which this is a legal and binding procedure and is being followed by other Committees.

Would she indulge me in this?

Mrs. MORELLA. You know, Mr. Brown, you're a man of great experience, having chaired this Full Committee, and I think you know that there are certain rules and procedures that each Committee subscribes for itself, where there is some latitude.

My belief is that if this is not proscribed in writing, in stone, that it is the prerogative of the Committee to establish that way of working with the appropriators. And so I would submit that getting any counsel's opinions would not be necessary.

Mr. BROWN. May I respond, Madam Chair?

Mrs. MORELLA. Yes, sir.

Mr. BROWN. The chair, I think, is taking a prudent course here, even though she had previously asserted that this was a process that was binding and other committees were following it.

I think a retreat from that position is prudent. I think the gentlelady knows that we do not need to have her consent or the Committee's consent to have this survey made.

I ask unanimous consent to include a survey in the record of the degree to which other committees are adopting a mandatory 602[b] authorization process.

Mrs. MORELLA. I have no concern about your asking for that, and I don't think I said that it was binding. I said we operate under that concept, and I think it is still appropriate for the committees to establish how they're going to reach their goal in terms of the allocation and look to what they can do to best arrive at that.

And so if a measurement should be taken, that again won't be binding, but if that would be of any assistance for the future, for the distinguished gentleman, so be it. Is there any other discussion before we begin?

Mr. CALVERT. Madam Chairman, I won't object to the former Chairman's desire to engage in a poll, but I want everyone here to know, and I think it's common knowledge with all members that we have taken on the task of balancing the budget, and all the authorizing committees have taken on that responsibility in one fashion or another, whether they're looking at the 602[b] allocations or doing it in some other manner.

But nonetheless, we're meeting that responsibility as the Chairlady is doing today.

So with that, Madam Chairman, I won't object to that.

Mrs. MORELLA. Do I hear any objection to the survey that Mr. Brown has asked for?

[No response.]

Mrs. CUBIN. Madam Chairman, I missed who will be conducting the survey that's requested.

Mrs. MORELLA. My understanding is that the counsel for this Committee, minority counsel for this Committee would be conducting the survey.

Mr. BROWN. I asked unanimous consent to have it done jointly, but since that was objected to by the chair, we will do it with just the minority counsel.

Mrs. MORELLA. There is no objection, if that was what the request was, then certainly I'd like to present that to the Subcommittee then in response it would be the majority and the minority counsel would make an inquiry of the other committees to establish whether or not they have caps for the Subcommittee allocations, looking to them as they authorize—

Mrs. CUBIN. Madam Chairman, I have no objection if the minority staff conducts the survey, but I do object to the majority staff spending their time doing that also.

Mr. BROWN. This gentleman will rephrase his unanimous consent request to include the minority counsel only to satisfy the objection of the lady.

Mrs. MORELLA. I just want to thank you very much for modifying it that way.

If there are no other objections or no other comments on that, so ordered.

Mr. BROWN. Madam Chairman, I make one additional request, and I know the Chair thinks that I'm harassing her.

Mrs. MORELLA. You're not harassing me.

Mr. BROWN. The Chair has repeatedly made the statement that this Committee can follow its own rules and procedures. She's undoubtedly correct in that.

Would the Chairlady provide, for the record, a citation to the rules which substantiates the right of the Chairman of the Full Committee to make the allocations which are the basis on which this Subcommittee is constrained to act according to the gentlelady's position.

Mrs. MORELLA. You know, sometimes Mr. Brown, the absence of rules mean that you have the authority, and that may well be the case. If it doesn't designate that we do not have the authority to do so.

Mr. BROWN. The Chair's request is that the gentlelady either indicate the presence or the absence of a statement on the matter.

Mrs. MORELLA. Yes, I would be happy to do so. Thank you.

Any other discussion on this particular amendment?

Yes, Ms. Lofgren?

Ms. LOFGREN. I just wanted to express a concern and support for the amendment. I do hope that the chair is correct that the second bill would be taken up.

But the concern I want to express is that it's my understanding that the Appropriations Subcommittee is going to mark up their bill next week, and if we don't take up the ATP program in a timely manner, then they will have no indication from our Subcommittee or Full Committee as to the value that we place upon these programs.

And I know that the chairperson does value these programs. I take her statements of support at face value and do not question them. But the concern I express is that if we don't act and approve this amendment, the Appropriations Committee will never know that and this will be lost in the shuffle and will really die a quiet death without a full hearing, without the Full Committee having an opportunity to weigh in, and I would argue that that is unfair to them and really unfair to the Appropriations Committee, to the House and to the process.

So I would hope that we would give an opportunity for the full process to work by approving this amendment.

Mrs. MORELLA. I can assure the gentlelady that I've had conversations, as perhaps you have and others have, with the appropriators in terms of the fact that we do value these programs too. But in putting it into two bills, we are just simply again reaffirming kind of the priorities, please don't take away from the core programs which we think are so imperative.

Do we have any final comments?

Mr. CALVERT. Madam Chairman?

Mrs. MORELLA. Mr. Calvert?

Mr. CALVERT. I put in a point of order on this amendment. I don't believe this amendment is germane. I think it violates the fundamental purpose of the Chairlady's bill to save the core functions of NIST.

Saying that, however, I withdraw my reservation and say that we ought to move this to a vote.

Mrs. MORELLA. I thank the gentleman.

Yes, Ms. Johnson, did you want to comment?

Ms. JOHNSON. Yes, I do.

Since the language is in sync with the other bill, with my being in contact with counsel, I just did not recognize the non-germaneness.

I want to say finally that I know that there is support for these programs and I'd be willing to abide by a democratic process. I don't think we can do that unless this bill has some assurance of coming before the Full Committee in a timely fashion.

I have not voted for many of the measures, but everything that passed that becomes law, I will follow them because I'm a law-abiding citizen. But they have not come by dictatorship, they have come by democracy, the democratic performance of this Congress.

That's all I'm asking for this consideration is that the Full Committee hear this portion of this Committee's report within these two bills and vote it up or down. That's all we're asking.

It's ludicrous to think that if it comes after the time of consideration of the Appropriations Committee, that it would have any effect.

I just did not want to get into that comedy of errors of having the game played that it will be considered and nothing will be done.

I want to have an opportunity to have these programs voted up or down in a democratic fashion. I think that's what we stand by in our Constitution, and I would simply ask for the Committee to allow for this to prevail in this Committee.

Mr. CALVERT. Would the gentlelady yield?

In the interests of democracy, that's why I'm withdrawing my reservation and have asked us to vote on it.

Ms. JOHNSON. Thank you, sir.

Mrs. MORELLA. I thank the gentlelady for offering the amendment. Please know that you can also offer that at the Full Committee level too, if you so desire. We operate in a democratic, small "d", procedure.

Mr. Tanner?

Mr. TANNER. Madam Chair, I appreciate the position the chair is in very much. I want to point out, at the risk of repeating myself two things.

Number one, her amendment does not highlight any budgetary restraint that the chair has taken a position on this morning.

Number two, it is the exact same language of the second bill.

Now I have been here six years, and I've marveled at the fig leaves that have been concocted from time to time to really hide what's going on.

What's going on here is really a clumsy fig leaf, because if we do not adopt this amendment, you can see the ATP and MEP programs gutted. They'll go nowhere.

We can't get a date for when the second bill will be heard. As a matter of fact, that's why we put these two in. The appropriators, Ms. Lofgren said, will never know that we even care about these, if you vote down this amendment. It's the same exact language as the Chairlady's second bill. And to do this, I think is a travesty because they'll never be heard.

And for whatever one thinks about the democratic process, if this goes forward, which I have no reason to doubt that it won't, I just wanted the members to know that it is not only a dictatorial policy from the Committee Chairman, but it is a thwarting of the Committee's opportunity to express to the rest of the Congress how we feel about these programs.

Thank you.

Mrs. MORELLA. Thank you.

Is there any further discussion on this amendment?

[No response.]

Mrs. MORELLA. If not, the vote occurs on the amendment that was offered by Ms. Johnson.

All in favor will designate by saying aye.

[Chorus of ayes.]

Mrs. MORELLA. Those opposed?

[Chorus of nays.]

Ms. JOHNSON. Recorded vote, please.

Mrs. MORELLA. The nays have it. A recorded vote has been requested and so ordered.

The CLERK. Mrs. Morella?

Mrs. MORELLA. No.

The CLERK. Mrs. Morella votes no.

Mr. Calvert?

Mr. CALVERT. No.

The CLERK. Mr. Calvert votes no.

Mrs. Cubin?

Mrs. CUBIN. No.

The CLERK. Mrs. Cubin votes no.

Mr. Gutknecht?

Mr. GUTKNECHT. No.

The CLERK. Mr. Gutknecht votes no.

Mrs. Seastrand?

Mrs. SEASTRAND. No.

The CLERK. Mrs. Seastrand votes no.

Mrs. Myrick?

Ms. MYRICK. No.

The CLERK. Mrs. Myrick votes no.
Mr. Tiahrt?
[No response.]
The CLERK. Mr. Walker?
Mr. WALKER. No.
The CLERK. Mr. Walker votes no.
Mr. Tanner?
Mr. TANNER. Aye.
The CLERK. Mr. Tanner votes yes.
Mr. McHale?
Mr. MCHALE. Yes.
The CLERK. Mr. McHale votes yes.
Ms. Johnson?
Ms. JOHNSON. Yes.
The CLERK. Ms. Johnson votes yes.
Mrs. McCarthy?
Mrs. MCCARTHY. Yes.
The CLERK. Mrs. McCarthy votes yes.
Ms. Lofgren?
Ms. LOFGREN. Yes.
The CLERK. Ms. Lofgren votes yes.
Mr. Brown?
Mr. BROWN. Yes.
The CLERK. Mr. Brown votes yes.
Mrs. MORELLA. The Clerk will designate the final amounts.
The CLERK. Madam Chair, the roll call vote is yeas six, nays seven.
Mrs. MORELLA. The amendment is defeated.
The next amendment to be offered, Mr. Brown, you've got an amendment.
Mr. BROWN. Thank you, Madam Chair, yes, I do.
It's number three in the package.
[The amendment follows:]

AMENDMENT TO THE SUBCOMMITTEE PRINT OFFERED BY MR. BROWN OF CALIFORNIA

Page 3, lines 8 and 9, strike "compensation of Federal employees who administer" and insert in lieu thereof "the Federal share of the administration of".

Page 4, line 25, through page 5, line 7, amend paragraph (2) to read as follows:

1 (2) by amending section 17(c)(3) to read as fol-
2 lows:
3 "(3) No award shall be made within any category or
4 subcategory if there are no qualifying enterprises in that
5 category or subcategory.".

Mrs. MORELLA. The Clerk will read the amendment.

The CLERK. Amendment to the Subcommittee Print Offered By Mr. Brown of California.

Mr. BROWN. I ask unanimous consent that the amendment be considered as read.

Mrs. MORELLA. So ordered.

Mr. BROWN. Madam Chair, am I recognized?

Mrs. MORELLA. The offeror of the amendment is recognized for five minutes.

Mr. BROWN. Madam Chair, I'm offering this on behalf of myself and Congressman Luther, who is not a member of this Subcommittee but is a member of the Full Committee from the Minneapolis, St. Paul area, which, as you know, is home to the 3M Corporation and other corporate leaders in the quality movement.

Congressman Luther, with this exposure to the quality movement and the Baldridge Award, wants to join with me in offering this amendment, and I would like to briefly describe what it does.

This is a conservative attempt to preserve the existing situation, the status quo. It expands on your authorization of appropriations for the Federal share of the Baldridge Award program to allow this program to continue all of its current activities, and it restores the program's ability to establish two new categories for which awards can be given. And, as you know, these are in the health and the education field.

It also replaces your provision increasing the number of awards per Baldridge Award category from two to four with a simple statement that the award is not to be given in a category in years in which no applicants can meet the Baldridge criteria.

This language has been recommended by NIST based on their experience to date in administering the award. They have found that having a finite number of awards means that some applicants find themselves competing against other applicants as much as they find themselves striving to achieve total quality, and that striving is the major purpose of the Baldridge Award.

They feel that the absence of a numerical limitation will lead to more cooperation amongst applicants, and that is really more in the spirit of total quality management.

I hope you will agree with me that the current program should be maintained, and that you will allow this other small change that the program administrators feel is important.

And I ask unanimous consent to revise and extend my remarks.

Mrs. MORELLA. Without objection, so ordered.

[The prepared statement of Mr. Brown follows:]

Statement of Hon. George E. Brown, Jr.

on Baldrige Award Amendment

Madame Chairwoman:

I offer this amendment on behalf of Congressman Bill Luther, a member of the Full Committee from the Minneapolis-St. Paul area which as you know is home to the 3M Corporation and other corporate leaders of the quality movement. Congressman Luther has shown real leadership in this matter, bringing to my attention that the Malcolm Baldrige Award process has been endangered in the budget deliberations. I appreciate Bill's diligence in this matter. He realizes, as I do, that it would be hard to find another area where so much good has been done with such a small expenditure of tax dollars. This, of course, is due both to the hard work over the last decade of a small

corps of dedicated civil servants, which also happen to be your constituents, but perhaps even more importantly to the unsung efforts of hundreds of thousands of private sector employees from around the country who have worked to make total quality management a household word. The Malcolm Baldrige Award, in my opinion, is a superior example of where the government through NIST and the past three Presidents has been able to be an important catalyst in an industry-led movement. Neither side could have accomplished what they have without the other. The sum here is clearly far greater than the parts.

The Malcolm Baldrige National Quality Award was established under legislation written jointly by our committee and industry quality experts and signed into law by President Reagan. During its eight years of existence, the criteria by which Quality Award winners are evaluated

have become a national standard for quality in management and most winners of the award are viewed as model businesses. During its first year of existence, a quality conscious corporate CEOs including John Hudiburg of Florida Power and Light and Sandy McDonnell of McDonnell Douglas worked tirelessly with members of the Baldrige family to raise a $10,000,000 endowment to supplement the work of the program. Applicants for the award pay for many of the award's expenses through fees including the expenses of the private sector quality experts who evaluate the applicants' businesses. The costs currently borne by the taxpayers are the salaries and expenses of the program's Federal managers, including office expenses.

Within the past few years, there has been a groundswell

of interest in extending the award categories to include Health Care and Educational Institutions. The more thoughtful leaders in these fields realize that their organizations have much to gain from the adoption of state of the art business practices. Panels of experts have rewritten the original Baldrige Award criteria to take into consideration the special circumstances of educational and medical organizations, and medical and educational personnel with a background in TQM have been trained as examiners. Pilot programs are underway in each area with 65 institutions testing these criteria; this compares with 46 current applicants for the existing categories of the award. The medical and educational institutions are going through all the steps it would take to qualify for an award to improve their organizations and learn more about quality. Fundraising activities in the medical and

educational communities may soon get underway to raise an endowment to help fund quality efforts in these fields. I consider these to be quite exciting developments, and you should be proud of your constituents at Bethesda Naval Hospital, Suburban Hospital, and elsewhere who are helping this happen.

My amendment is a conservative attempt to preserve the status quo. It expands your authorization of appropriations for the Federal share of the Baldrige Award program to allow this program to continue all current activities and it restores the program's ability to establish new categories of enterprises for which awards can be given. It also replaces your provision increasing the number of awards per Baldrige award category from two to four with a simple statement that the award is not to be given in a category in years in which no applicants

can match up to the Baldrige criteria. This language has been recommended by NIST based on their experience to date in administering the award. They have found that having a finite number of awards means that some applicants find themselves competing against other applicants as much as they find themselves striving to achieve total quality. They feel that the absence of a numerical limitation will lead to more cooperation among applicants, which after all is really more in the spirit of total quality management. I hope you agree with me that the current program should be maintained and that you will allow this other small change that the program feels is important.

Mrs. MORELLA. I would like to offer a substitute to the Subcommittee print to the amendment that Mr. Brown has just offered. Would the Clerk and Staff please distribute the amendment.

[The amendment follows:]

AMENDMENT TO THE SUBCOMMITTEE PRINT OFFERED BY MRS. MORELLA OF MARYLAND

Page 2, Line 12, strike "$272,179,000" and insert "$275,579,000".

Page 3, lines 7 through 14, strike and insert in lieu thereof the following:

(K) $3,400,000 shall be for the Malcolm Baldrige National Quality Program under section 17 of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3711a); and

(2) for Construction of Research Facilities, $62,055,000 for fiscal year 1996.

Mrs. MORELLA. As it's being distributed, let me just explain that this amendment to the former Chairman's amendment, I believe will respond to the distinguished gentleman's concerns.

The amendment provides for a $3.4 million authorization for the Malcolm Baldridge Quality Awards Program for the fiscal year 1996.

The budget cap would not be violated since there'll be a corollary reduction for construction bringing that amount to a level of $62.055 million.

I'm only taking money out of the construction account begrudgingly because I believe the functions of the Baldridge Awards program should be transferred only to the core SGRS program account.

The $3.4 million to be authorized will fully fund the components of the program including the test pilot programs for health care and education, and therefore these pilot programs will proceed on course.

However, while I'm a strong believer in the total quality management and the award program, I believe that Congressional authority should be required before we expand the categories and goals of the program.

Last year, Congressional authority was requested to officially expand the categories to health care and education. The debate was healthy and I believe it was necessary.

In addition, I understand that expansion of the awards at this time is not feasible and still requires further study.

The Baldridge awards are perhaps at their height of prestige. Being named a Baldridge awardee has become a significant business achievement.

I believe we should move prudently before we begin to consider expanding the awards. There are questions of possible dilution of the award, as we review the limitations on categories and the number of awardees.

But in addition, I have concerns about the cost of administering the Baldridge program if it continues to expand. Originally, the Baldridge program was intended to be financially self-sufficient funded through application fees and corporate contributions. If the program is now to be funded in the core SGRS account, I don't want the laboratories to be overlooked at the expense of funding what may be an ever-increasing Baldridge award program.

If NIST can come back to Congress and provide a plan for self-sufficient expansion in the health care and education categories, I can support this expansion. But I believe Congressional authority to do so is not only desired but essential.

I also understand the concern of the Baldridge Award Board of Overseers in recommending that the current limit of two awardees per category be lifted. I believe that by doubling the potential number of awards from two to four addresses this concern, which we have done in the legislation.

To offer the potential of unlimited awardees would only serve to dilute the power and prestige of the award.

Is there any other discussion on the two amendments, the amendment to the amendment?

Mr. BROWN. Madam Chair, may I respond briefly?

Mrs. MORELLA. Indeed, Mr. Brown.

Mr. BROWN. The gentleman is pleased with the substitute that the gentlelady has offered as an indication of her desire to make a reasonable compromise in this situation. Obviously, it does not go as far as I would like.

And this reflects my own very high regard for the performance of the Baldridge Award. This has been the most economical way to improve total quality management ever invented by the mind of man or woman, as far as that's concerned. It is the biggest bargain that we can buy.

And since some of our most significant need for improved quality is in education and health, extremely large, rapidly growing segments of our economy, I still want to have us move in that direction.

And I know the gentlelady sympathizes with that desire, even though she feels it's not opportune.

What I would like to suggest is, I accept the gentlelady's substitute, reserving the option in the Full Committee for some further discussion, which Mr. Luther would like to participate in with regard to the other aspects of my amendment.

Mrs. MORELLA. I thank the gentleman for his statement.

Incidentally, I was in Congress too—of course, you've been here longer than I—when the Baldridge Award first became part of law.

Mr. BROWN. It was a popular Republican idea, as a matter of fact, named after a Republican secretary.

Mrs. MORELLA. Exactly, and it has worked very well. I appreciate the fact that you're going to accept my substitute to your amendment with the idea that you will also present this in Full Committee.

Hearing no objection, do I have any other requests for any discussion?

[No response.]

Mrs. MORELLA. Then the question is on the substitute to the Brown Amendment.

So many as are in favor will say aye.

[Chorus of ayes.]

Mrs. MORELLA. Opposed?

[No response.]

Mrs. MORELLA. The ayes have it.

The question is on the amendment offered by Mr. Brown as amended by the accepted substitute offered by Morella.

All in favor will say aye.

[Chorus of ayes.]

Mrs. MORELLA. Opposed?

[No response.]

Mrs. MORELLA. The ayes have it. The amendment offered by Mr. Brown, as amended by Morella, is now passed.

Are there further amendments to the bill?

Ms. LOFGREN. Yes, Madam Chairman. I have an amendment, number four in the packet.

[The amendment follows:]

AMENDMENT TO THE SUBCOMMITTEE PRINT OFFERED BY MS. LOFGREN

Page 5, after line 12, insert the following new section:

1 SEC. 6. CONTINGENT AUTHORIZATION.

2 Notwithstanding any other provision of this Act, if
3 the concurrent resolution approved by the House of Rep-
4 resentatives and the Senate on the budget for fiscal year
5 1996 is based on an assumption of a tax cut of less than
6 $350,000,000,000, an amount equal to $464,700,000
7 multiplied by the fraction whose numerator is
8 $350,000,000,000 minus the amount of the tax cut re-
9 flected in the concurrent resolution and whose denomina-
10 tor is $350,000,000,000 is authorized to be appropriated
11 for fiscal year 1996 for Industrial Technology Services of
12 the National Institute of Standards and Technology.

Mrs. MORELLA. The Clerk will designate the amendment offered by Ms. Lofgren.

The CLERK. Amendment to the Subcommittee print offered by Ms. Lofgren.

Ms. LOFGREN. I would make a unanimous consent request that we waive the reading of the amendment.

Mrs. MORELLA. With objection, so ordered.

Ms. LOFGREN. I would like to urge passage.

This amendment is intended to address a key issue that will define the path that we as a nation end up taking in balancing the budget, and that is how much should we cut investments in our future to pay for a tax cut.

The House passed budget resolution contained a $350 billion tax cut. The Senate passed resolution contained a $170 billion tax cut, and that only if we achieved a balanced budget.

I think we all agree that investments in research and development will stimulate economic growth. And the extent to which tax cuts will stimulate growth is actually a matter of some debate, and may tie up the conference on the budget resolution for some time.

This amendment is intended to bridge the differences that may emerge in the final budget resolution process and reconciliation.

What the amendment does is to provide for the authorized levels of NIST to increase by a fraction directly related to the magnitude of the tax cut. If the House passed budget resolution fully prevails, the amendment would allow for no increase.

If the Senate passed budget resolution prevails, NIST could be increased by $465 million, a level which I think is only minimally adequate but certainly better than what is currently envisioned in this morning's process.

In either case, this funding will be part of the balanced budget plan, it's not a budget buster.

The contingent nature of this will allow it to be in conformity with whatever we end up with, and I would hope with the funding contingency on the upside instead of the downside.

I would urge passage of this as a moderate attempt to provide for these programs that all of us believe in.

Mrs. MORELLA. I thank the gentlewoman from California for offering her amendment. It's pretty creative, as a matter of fact.

And I must, however, oppose the amendment because if extra funding levels occur because of House and Senate differences in the passed budget resolutions, all programs would really have to be considered and prioritized and as the authorizing Subcommittee, I think we've got to display the same discipline as the appropriators if we're to be considered relevant to the process.

We will of course, if there are changes, again look to the appropriators before considering what this Committee is offering, so I have concerns at this time about doing prognosticating about taking funds from the tax cut where we don't know where it is at this point.

I also believe that reducing the Federal budget deficit should take precedence over a tax cut. And, as you know, I voted that way.

Ms. LOFGREN. Madam Chair, may I comment just briefly?

The concern I think why this amendment does merit consideration, a positive consideration by the Subcommittee, is should the

second bill not move forward, as many of us are concerned it may not, this will allow for the ability to move forward on these important programs.

I disagree with the Chairperson of the Full Committee and reasonable people can differ. But these are important programs in my view, and in the view of Silicon Valley and in the view of the leading industrial high tech people of the country.

This will at least keep open the opportunity for action to be taken.

And I thank you for the courtesy of recognizing me.

Mrs. MORELLA. Thank you.

Is there any further discussion on this amendment?

[No response.]

Mrs. MORELLA. If not, hearing none, the question is on the amendment that is offered by Ms. Lofgren.

All those in favor, designate by saying aye.

[Chorus of ayes.]

Mrs. MORELLA. Those opposed?

[Chorus of nays.]

Mrs. MORELLA. The nays have it.

A roll call has been requested.

The Clerk will call the roll.

The CLERK. Mrs. Morella?

Mrs. MORELLA. No.

The CLERK. Mrs. Morella votes no.

Mr. Calvert?

Mr. CALVERT. No.

The CLERK. Mr. Calvert votes no.

Mrs. Cubin?

Mrs. CUBIN. No.

The CLERK. Mrs. Cubin votes no.

Mr. Gutknecht?

Mr. GUTKNECHT. No.

The CLERK. Mr. Gutknecht votes no.

Mrs. Seastrand?

Mrs. SEASTRAND. No.

The CLERK. Mrs. Seastrand votes no.

Mrs. Myrick?

Ms. MYRICK. No.

The CLERK. Mrs. Myrick votes no.

Mr. Tiahrt?

[No response.]

The CLERK. Mr. Walker?

Mr. WALKER. No.

The CLERK. Mr. Walker votes no.

Mr. Tanner?

Mr. TANNER. Yes.

The CLERK. Mr. Tanner votes yes.

Mr. McHale?

Mr. MCHALE. Yes.

The CLERK. Mr. McHale votes yes.

Ms. Johnson?

Ms. JOHNSON. Yes.

The CLERK. Ms. Johnson votes yes.

Mrs. McCarthy?

Mrs. MCCARTHY. Yes.

The CLERK. Mrs. McCarthy votes yes.

Ms. Lofgren?

Ms. LOFGREN. Yes.

The CLERK. Ms. Lofgren votes yes.

Mr. Brown?

Mr. BROWN. Yes.

The CLERK. Mr. Brown votes yes.

Mrs. MORELLA. The Clerk will call the tally of the roll call.

The CLERK. Madam Chair, the roll call vote is yeas six, nays seven.

Mrs. MORELLA. The amendment is defeated.

Are there any further amendments to the Subcommittee print?

[No response.]

Mrs. MORELLA. Hearing none, the question is on the Subcommittee print, as amended.

All those in favor will say aye.

[Chorus of ayes.]

Mrs. MORELLA. All those opposed will say no.

[Chorus of noes.]

Mrs. MORELLA. In the opinion of the Chair, the ayes have it.

Mr. TANNER. Madam Chair, that a clean bill be prepared by the Chairwoman for presentation to the floor of the House for consideration.

Mrs. MORELLA. Thank you.

Mr. TANNER. And that the Chair take all necessary steps to bring the bill before the Full Committee for further consideration.

Mrs. MORELLA. The question is on the motion. The Subcommittee has heard the motion.

Those in favor will say aye.

[Chorus of ayes.]

Mrs. MORELLA. Those opposed, no.

[No response.]

Mrs. MORELLA. The motion is agreed to. The bill is reported to the Full Committee without objection. The motion to reconsider is laid on the table.

This concludes our markup of the first bill, the American Technology Advancement Act of 1995.

return used NIST jobs.)

104th Congress
Committee on Science

SUBCOMMITTEE ON TECHNOLOGY - 104th CONGRESS ** ROLL CALL

SUBJECT: TA/NIST

AMENDMENT: In the nature of a Substitute, offered by Mr. Tanner

Rm.	Phone	Name	Present	Absent	Yea	Nay	Not Voting
106	55341	Mrs. Morella, R-MD				✓	
509	51986	Mr. Calvert, R-CA				✓	
1034	52311	Mrs. Cubin, R-WY				✓	
425	52472	Mr. Gutknecht, R-MN				✓	
1216	53601	Mrs. Seastrand, R-CA				✓	
1319	51976	Mrs. Myrick, R-NC				✓	
1114	56216	Mr. Tiahrt, R-KS				✓	
2369	52411	Mr. Walker, R-PA*				✓	
1127	54714	Mr. Tanner, D-TN			✓		
217	56411	Mr. McHale, D-PA			✓		
1123	58885	Ms. Johnson, D-TX			✓		
1232	54535	Mrs. McCarthy, D-MO			✓		
118	53072	Ms. Lofgren, D-CA			✓		
2300	56161	Mr. Brown, D-CA*			✓		
		TOTAL			6	8	

Attested to: Sharon Pugh (Clerk's Signature)

*Ex Officio Members

104th Congress
Committee on Science

SUBCOMMITTEE ON TECHNOLOGY - 104th CONGRESS ** ROLL CALL

SUBJECT: TA/NIST

AMENDMENT: Offered by Ms. Johnson

Rm.	Phone	Name	Present	Absent	Yea	Nay	Not Voting
106	55341	Mrs. Morella, R-MD				✓	
509	51986	Mr. Calvert, R-CA				✓	
1034	52311	Mrs. Cubin, R-WY				✓	
425	52472	Mr. Gutknecht, R-MN				✓	
1216	53601	Mrs. Seastrand, R-CA				✓	
1319	51976	Mrs. Myrick, R-NC				✓	
1114	56216	Mr. Tiahrt, R-KS					✓
2369	52411	Mr. Walker, R-PA*				✓	
1127	54714	Mr. Tanner, D-TN			✓		
217	56411	Mr. McHale, D-PA			✓		
1123	58885	Ms. Johnson, D-TX			✓		
1232	54535	Mrs. McCarthy, D-MO			✓		
118	53072	Ms. Lofgren, D-CA			✓		
2300	56161	Mr. Brown, D-CA*			✓		
		TOTAL			6	7	

Attested to Sharon Pay (Clerk's Signature)

*Ex Officio Members

104th Congress
Committee on Science

SUBCOMMITTEE ON TECHNOLOGY - 104th CONGRESS ** ROLL CALL

SUBJECT: TA/NIST

AMENDMENT: Offered by Ms. Lofgren

Rm.	Phone	Name	Present	Absent	Yea	Nay	Not Voting
106	55341	Mrs. Morella, R-MD				✓	
509	51986	Mr. Calvert, R-CA				✓	
1034	52311	Mrs. Cubin, R-WY				✓	
425	52472	Mr. Gutknecht, R-MN				✓	
1216	53601	Mrs. Seastrand, R-CA				✓	
1319	51976	Mrs. Myrick, R-NC				✓	
1114	56216	Mr. Tiahrt, R-KS					✓
2369	52411	Mr. Walker, R-PA*				✓	
1127	54714	Mr. Tanner,D-TN			✓		
217	56411	Mr. McHale, D-PA			✓		
1123	58885	Ms. Johnson, D-TX			✓		
1232	54535	Mrs. McCarthy, D-MO			✓		
118	53072	Ms. Lofgren, D-CA			✓		
2300	56161	Mr. Brown, D-CA*			✓		
		TOTAL			6	7	

Attested to: Shannon P. (Clerk's Signature)

*Ex Officio Members

XXI. PROCEEDING FROM FULL COMMITTEE MARKUP

FULL COMMITTEE MARKUP—H.R. 1870, THE AMERICAN TECHNOLOGY ADVANCEMENT ACT OF 1995

WEDNESDAY, JUNE 28, 1995

HOUSE OF REPRESENTATIVES,
COMMITTEE ON SCIENCE,
Washington, DC.

The Committee met at 12:10 p.m. in Room 2318 of the Rayburn House Office Building, the Honorable Robert S. Walker, Chairman of the Committee, presiding.

The CHAIRMAN. Good afternoon.

We will now consider HR 1870, the American Technology Advancement Act of 1995.

I ask unanimous consent the bill be considered as read and open to amendment at any point. Without objection.

I ask members to proceed with amendments in the order of the roster when we get to amendments, but first I want to recognize the gentlelady from Maryland, the Chairwoman of the Technology Subcommittee for a report on the American Technology Advancement Act.

Mrs. MORELLA. Thank you very much, Mr. Chairman.

I'll try to talk quickly because of the hour.

But, Mr. Chairman and members of the Committee, with the beginning of this Congress—

The CHAIRMAN. The gentlelady will suspend until we have order in the Committee Room.

The gentlelady is reporting an important bill and we need order in the room. The gentlelady will proceed.

Mrs. MORELLA. Thank you, Mr. Chairman.

Thank you.

In the beginning of this Congress, this Committee, under your leadership, Mr. Chairman, has engaged in a new process which puts us, as an authorizing committee, at the table with the Appropriations Committee and the Budget Committee in the setting of public policy and in directing how our Federal moneys are spent.

We are now exercising our full policy setting responsibilities with a voice in the process.

Consequently, you have asked all of the subcommittee chairs to produce authorization bills which reflect the House-passed budget resolution to move us to a balanced budget in seven years.

We have to do this because otherwise we would not be considered credible or realistic in our work product.

As difficult as it is, we're being guided by the same budgetary limitations affecting the other Committees.

Accordingly, these budget limitations have forced us to prioritize our Federal spending, resulting in the limitation of our ability to fund every worthwhile program.

These limitation affect us here today as we report out HR 1870, the American Technology Advancement Act of 1995.

As I have stated before, I believe NIST is a well run agency with a well-defined mission.

The National Institute of Standards and Technology's mission: to promote economic growth by working with industry, to develop and apply technology, measurements and standards, is integral to our nation's competitiveness in the global marketplace.

And if it were possible, my preference would be to fully fund every NIST function.

However, given our commitment to balance the budget in the budget cap placed on the subcommittee, that could not be the case.

This American Technology Advancement Act, are reported out of subcommittee, sends out the strong signal that the core scientific work being done at the NIST laboratories must be a priority.

In addition, NIST's construction account must also be maintained as another priority.

Without the necessary renovation and construction of facilities, NIST will simply not be able to adequately fulfill its basic mission in the future.

So the bill provides fiscal year 1996 authorizations for the Under Secretary for Technology, for the NIST core programs, and for the construction of research facilities.

The Act also contains language permitting NIST to perform important administrative functions, such as expanding its ability to continue hiring the best and the brightest scientists.

These changes include:

Permanently extending the NIST personnel demonstration project;

Increasing the cap on the NIST Post-Doctoral Fellows Program;

Providing authority to give excess scientific equipment to secondary schools;

And creating authority for NIST metroshuttle for employees, among others.

So I thank the Chairman for yielding me this opportunity to briefly discuss the bill and look forward to working with you and the Committee as we move this bill to the floor.

Thank you, Mr. Chairman.

The CHAIRMAN. I want to thank the gentlelady for her statement and commend her for the leadership that she's provided the Technology Subcommittee. She's taken an aggressive stance in her subcommittee to ensure that the core science programs at NIST will be authorized to full program levels, and I fully support that objective, and have always been a supporter of the basic science and mission-related research at NIST, and I think the bill she's produced moves us in that direction.

I now want to recognize the gentleman, Mr. Tanner, for any opening statement he might make on the bill.

Mr. TANNER. Thank you, Mr. Chairman.

I have a very short opening statement, and I want to commend our Chairman of the Committee, Mrs. Morella, for her work on this matter. And I want to thank her for her support of the basic research at NIST. And I know she supports the other programs at NIST, as she said in her statement.

I am concerned about the procedure, as I said in the subcommittee markup, under which we operated in our subcommittee. I am concerned today, as I was then, that we are not considering HR 1871, which is the external programs at NIST, the MEP and the ATP.

That's not on the agenda today, and I'm going to have a little bit more to say about that as we go along in this hearing.

I'm going to, as I did in subcommittee, offer an amendment to HR 1870 which will include the provisions of HR 1871 with specific spending limits.

My purpose for offering this amendment is twofold. First, I believe we ought to openly debate these external programs, and secondly, the spending levels that will be proposed are simply to ensure funding for commitments the Federal Government will have made in fiscal year 1995 and prior years to local governments and businesses across the nation.

Thank you, and I yield back the balance of my time.

The CHAIRMAN. Thank the gentleman for his statement.

The gentleman from California, Mr. Brown, does he have an opening statement?

Mr. BROWN. Mr. Chairman, I do have an opening statement, and I will try to abbreviate it, and I ask unanimous consent to revise and extend it in the record.

I want to recognize the great contribution made by both the Chair and ranking minority member of this subcommittee.

I know of their strong support for the NIST programs, and I trust that we will come upon better days later on.

As I expressed earlier, I am concerned, and Mr. Tanner reiterated this point, that we have separated this bill into two parts and one part has no funding in it. That part of course deals with the ATP and the MEP program.

I recognize the Chairman's opposition to these programs and the lack of budgetary authority for them.

I don't think the lack of budgetary authority is fatal since the budget categories do not reach this level of detail. But the Chairman's opposition of course becomes a massive obstacle to continuing these programs.

We intend to call attention to the value of these programs, to the American manufacturing community. We intend to try to create a strong as possible wave of public support for them, and we believe that those who oppose these programs are wrong in not recognizing that they have arisen over the course of the last generation actually, basically coming out of this Committee and in response to requests from the business community, and with the support of the Republican Administrations who were in power most of this time.

That doesn't mean of course that they are immortal or they necessarily are of value, but we think that the actions proposed to be taken here of not funding these programs and with a very minimum of opportunity for Committee debate and discussion, and public hearings, is contrary to the best interests of the country and is a denigration of the deliberative role of the Congress in making decisions with regard to important matters of this sort.

And I spell this out in a little more detail in my statement.

[The prepared statement of Mr. Brown follows:]

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Insert T.14

Opening Statement

on the American Technology Advancement Act

by the Honorable George E. Brown Jr.

Mr. Chairman:

In a recent press conference, you quoted a Pennsylvania Dutchman, who told you in the mid-1970s that for every complex problem there is a simple solution, and it is always wrong. This was good advice in Pennsylvania in the 1970s; it is even more important advice to us here today. The problems with abolishing NIST and its programs as corporate welfare should be obvious to anyone who has taken the time to understand the consequences of such an action. Without NIST, we would have to rely on aggressive Nationalistic standards agencies in Europe and Japan for cutting edge standards knowledge and could expect to become minor players in international standards development in relatively short order. This could have a disastrous effect on the U.S. position in world trade. Without the Manufacturing Extension Program, the U.S. would be virtually the only major industrialized nation without a Federal commitment to modernizing its small and medium-sized manufacturers. Without the

Advanced Technology Program, witness after witness has told us there will not be a patient source of capital and a source of friendly advice for those unique entrepreneurs and small businesses which are willing to pursue those fundamental technologies that are crucial to our future but too far in the future for venture capitalists to be able to justify spending time and money on. NIST resources are enabling the U.S. business community to solve very real problems related to its competitiveness now and in the future, and pulling the plug on some or all of these programs, without coming up with realistic alternatives is such a simplistic solution that it is dead wrong.

Ironically, until recently the concept of corporate welfare only had credibility among a narrow segment of ideological liberals with a visceral distrust of industry. Somehow, they convinced ideological conservatives with a visceral distrust for government to join in their attack on industry-government cooperation. A very powerful and strange alliance of sloganeers from both ends of the political spectrum was born.

Calling our Corporate leaders welfare recipients seem silly on its face, but it has been very effective mud. It has sullied some very beneficial programs without anyone having to get to the merits.

Mr. Chairman, I hope this Committee still has the ability to move beyond tired, empty rhetoric. It's not too late to revert to our Committee's tradition of thinking deeper and longer term than our more trendy colleagues in both parties. We certainly have strong hearing records, from this Congress and earlier Congresses, which demonstrate the importance of all of NIST's major programs. We ignore them at our peril. Voluntary Standards are the competitive edge that allows us to manufacture better, faster and cheaper, and NIST is the one organization that continuously sharpens that edge . Without NIST's fundamental metrology research, its calibrations and certifications, its nurturing of small manufacturers, and its futuristic, cooperative research with industry, US. manufacturing would be far less sophisticated and coordinated than it is today. I commend Mrs. Morella for capturing the essence of NIST in her bill's title, the American Technology Advancement Act. I only wish she had included all of NIST under that umbrella.

Teddy Roosevelt started NIST's predecessor. Republican Members of this Committee including Sherry Boehlert, Connie Morella, Don Ritter, and Claudine Schneider made major contributions to NIST's modernization. Ronald Reagan signed the

ATP and MEP programs into law and George Bush as well as Bill Clinton proposed their expansion.

They understood as I do that NIST is not about corporate welfare. It is about the welfare of Corporate America and the welfare of our children. If we prevent voluntary cooperation between U.S. industry and the Federal government, we will all pay the price. If the ATP and MEP programs need reforming, let's reform not destroy.

The issue here is not balancing the budget; everyone in the room wants to do that. The issue is wisely investing the trillions of dollars that remain in the budget and making sure science and technology get their fair share. In our zest to reduce the deficit, we cannot forget our responsibilities to be wise stewards of what is left. If technology gets no respect here, just who in the Congress will prepare for the future. If we use phony caps to mindlessly destroy valuable programs, we are being reactionary, not revolutionary. We are once again taking the easy way out. Minority Leader Sam Rayburn made this very point to the Democratic Caucus in similar times in the mid-1950s when he observed: "Any jackass can kick down a barn door, but it takes a carpenter to build one."

The CHAIRMAN. Thank you, Mr. Brown.

I would say that Mrs. Morella has worked very, very hard, along with Mr. Tanner, to guide dollars to the programs under the jurisdiction of the NIST laboratories more than anyone else in the Congress.

Congresswoman Morella is responsible for the fact that the NIST core programs will be authorized at a level equal to the fiscal 1995 funding level approved in the 103rd Congress.

Moreover, under the subcommittee bill, the authorized funding level would be adjusted in the outyears to assure that real spending power is not reduced by inflation.

While many programs were reduced or frozen by the House Budget Resolution, the NIST core programs in the STRS account and the construction of research facilities account both assume an increase in funding every year.

In fact, in budget function 370, the Commerce and Housing Credit Section, the only two programs in the entire section with an increase in annual funding are those two programs.

It is unique in this year's resolution to see any growth in discretionary programs, and I suggest we endorse that growth in what we're about to do today.

In my view, that's quite an achievement and Congresswoman Morella is to be applauded for it.

The commitment that we have made to trying to fund the basic research agencies of this Government and those agencies that serve us truly in our global competitiveness program is reflected in what we're doing here in this bill, and I think that the subcommittee has done a remarkable job.

In addition, with our budgetary commitment to increase NIST's budget, I believe we must continue to utilize our oversight functions over NIST, as well as over all the agencies in our jurisdiction.

I look forward to working with the gentlelady's subcommittee in conducting those oversight reviews of a number of aspects of the NIST laboratory functions including its Malcolm Baldridge Quality Awards activities.

With that, the Chair would indicate that members should proceed with amendments in order of the roster, and it would be my intention to offer the first amendment, which is an en bloc amendment at the desk.

And I would ask unanimous consent that it be considered as original text so that further substitutes could be offered.

Without objection.

[The amendment follows:]

AMENDMENT TO H.R. 1870
OFFERED BY MR. WALKER

Page 5, after line 9, insert the following new sections:

1 **SEC. 6. FASTENER QUALITY ACT AMENDMENTS.**

2 (a) SECTION 2 AMENDMENTS.—Section 2 of the Fas-
3 tener Quality Act (15 U.S.C. 5401) is amended—

4 (1) by striking subsection (a)(4), and redesig-
5 nating paragraphs (5) through (9) as paragraphs
6 (4) through (8), respectively;

7 (2) in subsection (a)(7), as so redesignated by
8 paragraph (1) of this subsection, by striking "by lot
9 number"; and

10 (3) in subsection (b), by striking "used in criti-
11 cal applications" and inserting in lieu thereof "in
12 commerce".

13 (b) SECTION 3 AMENDMENTS.—Section 3 of the Fas-
14 tener Quality Act (15 U.S.C. 5402) is amended—

15 (1) in paragraph (1)(B) by striking "having a
16 minimum tensile strength of 150,000 pounds per
17 square inch" and inserting in lieu thereof "having a
18 minimum Rockwell C hardness of 40 or above";

19 (2) in paragraph (2)—

1 (A) by inserting "International Organiza-
2 tion for Standardization," after "Society of
3 Automotive Engineers,"; and
4 (B) by inserting "consensus" after "or any
5 other";
6 (3) in paragraph (5)—
7 (A) by inserting "or" after "standard or
8 specification," in subparagraph (B);
9 (B) by striking "or" at the end of subpara-
10 graph (C);
11 (C) by striking subparagraph (D); and
12 (D) by inserting "or produced in accord-
13 ance with ASTM F 432" after "307 Grade A";
14 (4) in paragraph (6) by striking "other person"
15 and inserting in lieu thereof "government agency";
16 (5) in paragraph (8) by striking "Standard"
17 and inserting in lieu thereof "Standards";
18 (6) by striking paragraph (11) and redesignat-
19 ing paragraphs (12) through (15) as paragraphs
20 (11) through (14), respectively;
21 (7) in paragraph (13), as so redesignated by
22 paragraph (6) of this subsection, by striking ", a
23 government agency" and all that follows through
24 "markings of any fastener" and inserting in lieu
25 thereof "or a government agency"; and

1 (8) in paragraph (14), as so redesignated by
2 paragraph (6) of this subsection, by inserting "for
3 the purpose of achieving a uniform hardness" after
4 "quenching and tempering".
5 (c) SECTION 4 REPEAL.—Section 4 of the Fastener
6 Quality Act (15 U.S.C. 5403) is repealed.
7 (d) SECTION 5 AMENDMENTS.—Section 5 of the Fas-
8 tener Quality Act (15 U.S.C. 5404) is amended—
9 (1) in subsection (a)(1)(B) and (2)(A)(i) by
10 striking "subsections (b) and (c)" and inserting in
11 lieu thereof "subsections (b), (c), and (d)";
12 (2) in subsection (c)(2) by striking "or, where
13 applicable" and all that follows through "section
14 7(c)(1)";
15 (3) in subsection (c)(3) by striking ", such as
16 the chemical, dimensional, physical, mechanical, and
17 any other";
18 (4) in subsection (c)(4) by inserting "except as
19 provided in subsection (d)," before "state whether";
20 and
21 (5) by adding at the end the following new sub-
22 section:
23 "(d) ALTERNATIVE PROCEDURE FOR CHEMICAL
24 CHARACTERISTICS.—Notwithstanding the requirements of
25 subsections (b) and (c), a manufacturer shall be deemed

1 to have demonstrated, for purposes of subsection (a)(1),
2 that the chemical characteristics of a lot conform to the
3 standards and specifications to which the manufacturer
4 represents such lot has been manufactured if the following
5 requirements are met:

6 "(1) The coil or heat number of metal from
7 which such lot was fabricated has been inspected
8 and tested with respect to its chemical characteris-
9 tics by a laboratory accredited in accordance with
10 the procedures and conditions specified by the Sec-
11 retary under section 6.

12 "(2) Such laboratory has provided to the manu-
13 facturer, either directly or through the metal manu-
14 facturer, a written inspection and testing report,
15 which shall be in a form prescribed by the Secretary
16 by regulation, listing the chemical characteristics of
17 such coil or heat number.

18 "(3) The report described in paragraph (2) in-
19 dicates that the chemical characteristics of such coil
20 or heat number conform to those required by the
21 standards and specifications to which the manufac-
22 turer represents such lot has been manufactured.

23 "(4) The manufacturer demonstrates that such
24 lot has been fabricated from the coil or heat number

1 of metal to which the report described in paragraphs
2 (2) and (3) relates.
3 In prescribing the form of report required by subsection
4 (c), the Secretary shall provide for an alternative to the
5 statement required by subsection (c)(4), insofar as such
6 statement pertains to chemical characteristics, for cases
7 in which a manufacturer elects to use the procedure per-
8 mitted by this subsection.".
9 (e) SECTION 6 AMENDMENT.—Section 6(a)(1) of the
10 Fastener Quality Act (15 U.S.C. 5405(a)(1)) is amended
11 by striking "Within 180 days after the date of enactment
12 of this Act, the" and inserting in lieu thereof "The".
13 (f) SECTION 7 AMENDMENTS.—Section 7 of the Fas-
14 tener Quality Act (15 U.S.C. 5406) is amended—
15 (1) by amending subsection (a) to read as fol-
16 lows:
17 "(a) DOMESTICALLY PRODUCED FASTENERS.—It
18 shall be unlawful for a manufacturer to sell any shipment
19 of fasteners covered by this Act which are manufactured
20 in the United States unless the fasteners—
21 "(1) have been manufactured according to the
22 requirements of the applicable standards and speci-
23 fications and have been inspected and tested by a
24 laboratory accredited in accordance with the proce-

1 dures and conditions specified by the Secretary
2 under section 6; and
3 "(2) an original laboratory testing report de-
4 scribed in section 5(c) and a manufacturer's certifi-
5 cate of conformance are on file with the manufac-
6 turer, or under such custody as may be prescribed
7 by the Secretary, and available for inspection.";
8 (2) in subsection (c)(2) by inserting "to the
9 same" after "in the same manner and";
10 (3) in subsection (d)(1) by striking "certificate"
11 and inserting in lieu thereof "test report"; and
12 (4) by striking subsections (e), (f), and (g) and
13 inserting in lieu thereof the following:
14 "(e) SUBSEQUENT PURCHASER.—If a person who
15 purchases fasteners for any purpose so requests either
16 prior to the sale or at the time of sale, the seller shall
17 conspicuously mark the container of the fasteners with the
18 lot number from which such fasteners were taken.".
19 (g) SECTION 9 AMENDMENT.—Section 9 of the Fas-
20 tener Quality Act (15 U.S.C. 5408) is amended by adding
21 at the end the following new subsection:
22 "(d) ENFORCEMENT.—The Secretary may designate
23 officers or employees of the Department of Commerce to
24 conduct investigations pursuant to this Act. In conducting
25 such investigations, those officers or employees may, to

1 the extent necessary or appropriate to the enforcement of
2 this Act, exercise such authorities as are conferred upon
3 them by other laws of the United States, subject to policies
4 and procedures approved by the Attorney General.".
5 (h) SECTION 10 AMENDMENTS.—Section 10 of the
6 Fastener Quality Act (15 U.S.C. 5409) is amended—
7 (1) in subsections (a) and (b), by striking "10
8 years" and inserting in lieu thereof "5 years"; and
9 (2) in subsection (b), by striking "any subse-
10 quent" and inserting in lieu thereof "the subse-
11 quent".
12 (i) SECTION 13 AMENDMENT.—Section 13 of the
13 Fastener Quality Act (15 U.S.C. 5412) is amended by
14 striking "within 180 days after the date of enactment of
15 this Act".
16 (j) SECTION 14 REPEAL.—Section 14 of the Fastener
17 Quality Act (15 U.S.C. 5413) is repealed.

Sec. 7. Prohibition of Lobbying Activities.

None of the funds authorized by this Act shall be available for any activity whose purpose is to influence legislation pending before the Congress, provided that this shall not prevent officers or employees of the United States or of its departments or agencies from communicating to Members of Congress on the request of any Member or to Congress, through the proper channels, requests for legislation or appropriations which they deem necessary for the efficient conduct of the public business.

Sec. 8. Limitation on Appropriations.

(a) Exclusive Authorization for Fiscal Year 1996. -- Notwithstanding any other provision of law, no sums are authorized to be appropriated for fiscal year 1996 for the activities of the Under Secretary for Technology/Office of Technology Policy or the National Institute of Standards and Technology unless such sums are specifically authorized to be appropriated by this Act.

(b) Subsequent Fiscal Years. -- No sums are authorized to be appropriated for any fiscal year after fiscal year 1996 for the activities of the Under Secretary for Technology/Office of Technology Policy or the National Institute of Standards and Technology unless such sums are specifically authorized to be appropriated by Act of Congress with respect to such fiscal year.

Sec. 9. Eligibility for Awards.

(a) In General.-- The Director shall exclude from consideration for awards of financial assistance made by the Under Secretary for Technology/Office of Technology Policy or the National Institute of Standards and Technology after fiscal year 1995 any person who received funds, other than those described in subsection (b), appropriated for a fiscal year after fiscal year 1995, from any Federal funding source for a project that was not subjected to a competitive, merit-based award process. Any exclusion from consideration pursuant to this section shall be effective for a period of 5 years after the person receives such Federal funds.

(b) Exception.-- Subsection (a) shall not apply to awards to persons who are members of a class specified by law for which assistance is awarded to members of the class according to a formula provided by law.

The Clerk will distribute the en bloc amendment.

[Pause.]

The CHAIRMAN. When this Committee marked up the Fastener Quality Act, I attached an amendment to the Fastener Advisory Committee. This Committee was determined that the Act would have a detrimental impact on business.

The Fastener Advisory Committee reported that without their recommended changes, the burden of cost would be close to $1 billion on the fastener industry.

We attempted in the last Congress to amend the law and unfortunately we were not successful. We did have the language pass both the House and the Senate. However, the language died in conference.

This amendment addresses the concerns of the Fastener Advisory Committee, heat mill certification, commingling, and minor nonconformance.

Working with this Congress and with NIST, the Public Law Task Force, comprised of membership from manufacturing, importing, and distributing, has worked to improve the law while maintaining safety and quality.

The Public Law Task Force represents 85 percent of all the companies involved in manufacture, distribution and importation of fasteners and their suppliers in the United States.

Combined, the Task Force represents over 100,000 employees in all 50 states.

The en bloc amendment also includes the language already adopted by the Committee on other bills, including the prohibition on lobbying as amended by Mr. Brown, the limitation on authorizations and anti-earmarking.

This amendment I believe is a good solution to a couple of problems that are out there, and I would urge my colleagues to support its adoption.

Are there members that wish to be recognized on the en bloc amendment?

Mrs. MORELLA. Mr. Chairman?

The CHAIRMAN. The gentlelady from Maryland.

Mrs. MORELLA. I just simply wanted to indicate that the amendment that you've offered en bloc is a reflection of the Fastener Quality Task Force recommendations, working with NIST and with industry, and I want to commend you for the work you've done in the last Congress and continuing, that has resulted in this.

The CHAIRMAN. I thank the gentlelady.

Are there other members that wish to be recognized on the en bloc amendment?

[No response.]

The CHAIRMAN. If not, the Chair will put the question on the en bloc amendment.

Those in favor will say aye.

[Chorus of ayes.]

The CHAIRMAN. Those opposed will say no.

[No response.]

The CHAIRMAN. In the opinion of the Chair, the ayes have it, and the amendment is agreed to.

The next amendment on the roster is Mr. Tanner, an amendment in the nature of a substitute.

[The amendment follows:]

AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. TANNER TO H.R. 1870

Strike all after the enacting clause and insert in lieu thereof the following:

1 SECTION 1. SHORT TITLE.

2 This Act may be cited as the "Technology Adminis-
3 tration Authorization Act of 1995".

4 SEC. 2. AUTHORIZATION OF APPROPRIATIONS.

5 (a) UNDER SECRETARY FOR TECHNOLOGY.—There
6 are authorized to be appropriated to the Secretary of Com-
7 merce for the activities of the Under Secretary for Tech-
8 nology/Office of Technology Policy $9,992,000 for fiscal
9 year 1996.

10 (b) NATIONAL INSTITUTE OF STANDARDS AND
11 TECHNOLOGY.—There are authorized to be appropriated
12 to the Secretary of Commerce for the National Institute
13 of Standards and Technology for fiscal year 1996 the fol-
14 lowing amounts:

15 (1) For Industrial Technology Services,
16 $464,700,000, of which—

1 (A) $330,700,000 shall be for the Ad-
2 vanced Technology Program under section 28
3 of the National Institute of Standards and
4 Technology Act (15 U.S.C. 278n);
5 (B) $130,600,000 shall be for the Manu-
6 facturing Extension Partnerships program
7 under sections 25 and 26 of the National Insti-
8 tute of Standards and Technology Act (15
9 U.S.C. 278k and 278l); and
10 (C) $3,400,000 shall be for the Malcolm
11 Baldrige National Quality Award program
12 under section 17 of the Stevenson-Wydler Tech-
13 nology Innovation Act of 1980 (15 U.S.C.
14 3711a).
15 (2) For Scientific and Technical Research and
16 Services, $264,500,000.
17 (3) For Construction of Research Facilities,
18 $15,000,000.
19 SEC. 3. NATIONAL INSTITUTE OF STANDARDS AND TECH-
20 NOLOGY ACT AMENDMENTS.
21 The National Institute of Standards and Technology
22 Act (15 U.S.C. 271 et seq.) is amended—
23 (1) in section 10(a)—
24 (A) by striking "nine" and inserting in lieu
25 thereof "15"; and

1 (B) by striking "five" and inserting in lieu
2 thereof "10";
3 (2) in section 15—
4 (A) by striking "Pay Act of 1945; and"
5 and inserting in lieu thereof "Pay Act of
6 1945;"; and
7 (B) by inserting "(h) the provision of
8 transportation services for employees of the In-
9 stitute between the facilities of the Institute
10 and nearby public transportation, notwithstand-
11 ing section 1344 of title 31, United States
12 Code," after "interests of the Government";
13 (3) in section 19, by striking "nor more than
14 forty";
15 (4) in section 25(c)—
16 (A) by striking "for a period not to exceed
17 six years" in paragraph (1); and
18 (B) by striking "which are designed" and
19 all that follows through "operation of a Center"
20 in paragraph (5) and inserting in lieu thereof
21 "to a maximum of ⅓ Federal funding. Each
22 Center which receives financial assistance under
23 this section shall be evaluated during its sixth
24 year of operations, and at least once each three
25 years thereafter as the Secretary considers ap-

1 propriate, by an evaluation panel appointed by
2 the Secretary in the same manner as was the
3 evaluation panel previously appointed. The Sec-
4 retary shall not provide funding for additional
5 years of the Center's operation unless the most
6 recent evaluation is positive and the Secretary
7 finds that continuation of funding furthers the
8 purposes of this section";
9 (5) in section 28—
10 (A) by striking "or contracts" in sub-
11 section (b)(1)(B), and inserting in lieu thereof
12 "contracts, and, subject to the last sentence of
13 this subsection, other transactions";
14 (B) by inserting "and if the non-Federal
15 participants in the joint venture agree to pay at
16 least 50 percent of the total costs of the joint
17 venture during the Federal participation period,
18 which shall not exceed 5 years," after "partici-
19 pation to be appropriate,";
20 (C) by striking "provision of a minority
21 share of the cost of such joint ventures for up
22 to 5 years, and (iii)" in subsection (b)(1)(B),
23 and inserting in lieu thereof "and";
24 (D) by striking "and cooperative agree-
25 ments" in subsection (b)(2), and inserting in

1 lieu thereof ", cooperative agreements, and,
2 subject to the last sentence of this subsection,
3 other transactions";
4 (E) by adding after subsection (b)(4) the
5 following:
6 "The authority under paragraph (1)(B) and paragraph
7 (2) to enter into other transactions shall apply only if the
8 Secretary, acting through the Director, determines that
9 standard contracts, grants, or cooperative agreements are
10 not feasible or appropriate, and only when other trans-
11 action instruments incorporate terms and conditions that
12 reflect the use of generally accepted commercial account-
13 ing and auditing practices."; and
14 (F) by adding at the end the following new
15 subsection:
16 "(k) Notwithstanding subsection (b)(1)(B)(ii) and
17 subsection (d)(3), the Director may grant extensions be-
18 yond the deadlines established under those subsections for
19 joint venture and single applicant awardees to expend
20 Federal funds to complete their projects, if such extension
21 may be granted with no additional cost to the Federal
22 Government and it is in the Federal Government's interest
23 to do so.";
24 (6) by redesignating section 31 as section 32;
25 and

1 (7) by inserting after section 30 the following
2 new section:
3 "NATIONAL QUALITY PROGRAM
4 "SEC. 31. A National Quality Program is established
5 within the Institute, the purpose of which shall be to per-
6 form research and outreach activities to assist private sec-
7 tor quality efforts and to serve as a mechanism by which
8 companies in the United States, universities and other in-
9 terested parties, and the Institute can work together to
10 advance quality management programs and to share and,
11 as appropriate, develop manufacturing best practices.".
12 SEC. 4. STEVENSON-WYDLER TECHNOLOGY INNOVATION
13 ACT OF 1980 AMENDMENTS.
14 The Stevenson-Wydler Technology Innovation Act of
15 1980 (15 U.S.C. 3701 et seq.) is amended—
16 (1) in section 11(i) (15 U.S.C. 3710(i))—
17 (A) by inserting "loan, lease," after "de-
18 partment, may"; and
19 (B) by inserting "Actions taken under this
20 subsection shall not be subject to Federal re-
21 quirements on the disposal of property." after
22 "education and research activities."; and
23 (2) by amending section 17(c)(3) to read as fol-
24 lows:

1 "(3) No award shall be made within any category or
2 subcategory if there are no qualifying enterprises in that
3 category or subcategory.".

4 **SEC. 5. PERSONNEL.**

5 The personnel management demonstration project es-
6 tablished under section 10 of the National Bureau of
7 Standards Authorization Act for Fiscal Year 1987 (15
8 U.S.C. 275 note) is extended indefinitely.

Amend the title to read as follows: "A bill to authorize appropriations for the programs of the Technology Administration for fiscal year 1996, and for other purposes.".

Mr. TANNER. Thank you, Mr. Chairman.

The CHAIRMAN. The Chair, waiting to see the amendment here, would reserve a point of order.

Mr. TANNER. I understand.

And this amendment is similar to the one offered in the subcommittee, where it failed, but it authorizes funding for the Under Secretary for Technology in the National Institute of Standards and Technology, authorization for NIST programs, includes funding for the industrial technology services, the scientific and technical research services and construction of research facilities.

The overall funding level is $754.1 million, which is well within the overall science and technology limit set by the conservative coalition budget, therefore being consistent with balancing the Federal budget within seven years, as this Committee was instructed to do.

The funding level represents a decrease of $282.5 million, or 27 percent, from the President's request, and a decrease of $109.5 million or 13 percent from the FY '95 allocation.

Those figures will be important later.

It's well below the President's Revised Budget figures, and represents a hard freeze for programs within the technology administration.

Funding for the Under Secretary is held at FY '95 levels.

I'm going to skip some of this.

Funding levels for the ATP and MEP are set at levels that anticipate the amount required to pay for grants awarded in FY 1995 and in previous years.

NIST has reported that funding totaling approximately $341 million will be required for FY '96 to fund grants award in FY '95 and in previous years.

Our amendment authorizes $330.7 million to the ATP account. This is entirely consistent with Chairman Walker's statement that existing projects would be allowed to go to completion.

NIST has also reported they will need approximately $132 million in FY '96 to continue existing grants under the Manufacturing Extension Partnership program. We authorize $130.6 million.

Funding for the Malcolm Baldridge National Quality Award is held at the FY '95 level.

The account for the construction of research facilities is funded at $15 million. This is a funding level necessary to maintain laboratory facilities at the Gaithersburg, Maryland and Boulder, Colorado campuses. NIST's current unexpended balances in its construction account are sufficient to fund constructions of facilities outlined in the five-year plan in 1996.

With that, Mr. Chairman, I would yield back the balance at this time.

The CHAIRMAN. Thank the gentleman.

Are there other members that wish to be heard on the substitute?

Ms. LOFGREN. Mr. Chairman?

The CHAIRMAN. Ms. Lofgren?

Ms. LOFGREN. I would just like to speak briefly to commend Mr. Tanner for his vision in bringing forward this amendment.

I think in this time where we are focusing on the need to balance our budget, we also need to keep our eye on the long term of what's going to be good for our country.

And when I look at what these programs have produced, and I understand the role of industry in these programs, I mean, California industry has put up more than half the money for development of this new technology. And I am convinced, after having gone through personally in parts of California and learned some of the advances that are being made, that this is a component to making sure that our country stays on the cutting edge of technology around the world, so that we can be competitive in a global market that is very tough.

I hope that this amendment will receive a more favorable hearing in this Full Committee than it did in the subcommittee. And I just wanted to thank Mr. Tanner for his leadership in bringing it forward to us today, and I would yield back the balance of my time.

The CHAIRMAN. I appreciate the gentlelady's statement.

Are there further members that wish to be heard on this amendment?

[No response.]

The CHAIRMAN. The Chair would withdraw his point of order on it. I should have done that earlier.

Mr. TANNER. I appreciate that, Mr. Chairman.

If no one else wants to talk, if I may, I'd like to, if I haven't used my five minutes, I'd like to use two or three at this time.

The CHAIRMAN. Well, in order—

Mr. TANNER. I tried to yield back in my short opening statement.

The CHAIRMAN. Yes, you did, but in order to preserve the process here, maybe I'll yield to Mr. Brown and let him yield to you.

Is that all right?

I recognize Mr. Brown.

Mr. BROWN. Mr. Chairman, I rise in support of Mr. Tanner's amendment. It's an exceptionally good amendment and I will yield to him to explain just why it's such an exceptionally good amendment.

Mr. TANNER. Thank you, Mr. Brown.

Let me just read one paragraph from the Economic Strategy Institute that I find insightful in this instance.

They say, in a report dated June 5th of this year:

Recent Congressional budget cuts to the Department of Commerce's Advanced Technology Project, ATP, and the Department of Defense's Technology Reinvestment Project, ignore the growing recognition in both government and industry that increased public private sector cooperation is necessary to sustain advanced technological development in the United States.

An Economic Strategy Institute Study released today argues that absent such cooperation, the decline in Federal and corporate research and development expenditures and concomitant rise in foreign R&D spending will increasingly deliver technological leadership in defense and commercial areas to America's economic competitors.

I think that goes to the heart of what we're trying to do here. We had two bills in our subcommittee—I want you all to listen to

this—we had two bills in our subcommittee. One funds the NIST core programs, which we support.

The other bill was on our subcommittee docket. It is not on the docket today. That bill deals with NIST's external programs. The Advanced Technology Program, which is the precursor to a competitive situation in the marketplace, and which will engage in the research and development that market forces in this country do not allow our corporations to engage in.

By that, I mean the pressures of the stock market for quarterly dividends, for yearly reports, semiannual reports, and the like, hardly allow our CEOs in major corporations to engage in long term R&D that's necessary for us to be competitive in the year 2010 and beyond.

There's just no economic payback in the short run. Therefore, the government partnership with industry putting up the money and actually utilizing their people in some of these instances, as other countries that we compete with do, I think is crucial to our economic vitality in the next century.

The other program, the MEP program, of course is a network to help small and medium-sized businesses. In all of my career in government, I've always thought that the government ought to be a friend of business, not an enemy. The government ought to be an ally of our businesses, not its adversary.

And these two programs work.

In a desperate attempt to get them before the Full Committee and the only way available to us, we have combined those programs with the core bill.

The subcommittee chairman and the subcommittee amended the base bill for the Malcolm Baldridge Award, so I would say any germaneness issue, and I thank the Chairman for withdrawing his point of order, was taken up at that time, and this is not only germane but this is the only means by which we have to get these two programs before the Full Committee.

And I would appreciate their consideration.

Mr. BROWN. Taking back my time, I want to compliment the gentleman for his statement. He has expressed it very well. This is an effort to get a vote on authorizing the programs of Advanced Technology which the Chairman objects to.

There are two objections that he's publicly expressed, one that it busts the budget, and I point out that the authorizing bills are not covered by the Budget Act, only appropriation bills are, and therefore this cannot result in any busting of the budget. And we are well aware of that.

His second objection is to the fact that this is corporate welfare, as he's expressed on a number of occasions, so it's not good science, it's not basic research, it's some sort of pseudo-research. This is an ideological view not held by most members of the business community. And I hope that Mr. Walker, in his wisdom, will gradually change that point of view.

But over the last ten years, I haven't succeeded in convincing him of that, so these are his primary reasons for opposing funding of these programs.

Mr. SCHIFF. Mr. Chairman?

The CHAIRMAN. The Chair thanks the gentleman for describing my position. I'll try to do it myself in a few minutes.

Mr. BROWN. You can describe mine any way you want.

The CHAIRMAN. The gentleman from New Mexico, Mr. Schiff.

Mr. SCHIFF. Thank you, Mr. Chairman.

I've a couple questions for the author of the amendment, if I may, Mr. Tanner.

My first question is. I haven't gone through all the figures. Does your substitute—I understand that you are proposing authorizing the Advanced Technology Program and the Manufacturing Extension Partnerships.

My question is, in terms of all the other authorizations in this bill, does your amendment change the amounts, or does it leave them the same with the Chairman's mark?

I yield to the gentleman.

Mr. TANNER. It is a little more than the Chairman's mark.

This is very confusing because I don't know who is following who here. Either we're following the Appropriations Subcommittee, which I think we are since they just handed down some numbers that are, by the way, very close to ours.

As I said in my opening statement, we cut, in our amendment, we cut 28 percent—27 percent from the President's request, and 13 percent from the FY '95 allocation.

The subcommittee on Appropriations, yesterday on Commerce, Justice, State, and Judiciary, provided 28 percent lower than the President's request, one percent different from ours.

Mr. SCHIFF. Reclaiming my time, I'd—

Mr. TANNER. And 17 percent lower than FY '95. We're at 13 percent.

Mr. SCHIFF. Reclaiming my time, I asked a very—

Mr. TANNER. So it's in the ball park.

Mr. SCHIFF. —I asked a very specific question of the gentleman, though. Leaving aside ATP and the Manufacturing Extension Partnerships for the moment, does the gentleman's amendment change Chairman Walker's mark in the authorization?

It seems to me that's a yes or a no.

Mr. TANNER. It's slightly lower, I'm told.

Mr. SCHIFF. Slightly lower?

Mr. TANNER. Seven million.

Mr. SCHIFF. All right. Taken together then, taken together with the reauthorization of ATP and the Manufacturing Extension Partnerships, does the total authorization exceed the basic bill here today?

Mr. TANNER. It does, but that's where it becomes confusing quite frankly.

The Appropriations Subcommittee has appropriated $62 million more than we have marked up. Now I don't know what happened to that. I was going to ask later what happens to that.

What we are attempting to do is put into this Committee's record authorization for the continuation of these programs, at least to the point of having them be enabling them to complete obligations of this Government that are currently in the field. That's what we've tried to do in this amendment.

Mr. SCHIFF. But the Appropriations Subcommittee did zero out the ATP program, I believe.

Mr. TANNER. Well, they said you had to use unobligated funds. There is $164 million in unobligated funds in the NIST construction account. That's why we only used $15 million in our amendment.

Mr. SCHIFF. I yield to the Chairman.

The CHAIRMAN. The gentleman is correct. I think what we need to realize here is this substitute is $410 million over the amount in the budget.

And to say that it comes somewhere close to where the appropriators are I think also stretches the imagination a little bit. It is considerably higher than where the appropriators are because the appropriators have zeroed the ATP account.

Now the gentleman is correct that the appropriators have suggested that there are unobligated funds that can be used. That is to be used for closeout of programs that have two and three-year contracts under the ATP at the present time. There's not a desire to completely axe those programs, and so they are to be phased out.

But the number, the appropriated number is zero, whereas in the gentleman's amendment, it's $330 million. So there's a considerable difference between 0 and 330 million in the gentleman's amendment.

And if I heard the gentleman just a moment ago, he said that he is actually lower than our amendment in the core program. So what he has done is, he has cut the core program in favor of putting hundreds of millions of dollars into the external programs in his particular amendment, which goes the opposite direction from where the priorities were that the subcommittee had reflected.

Mr. SCHIFF. If I may reclaim my time from the Chairman for just a moment, and then I'll yield whatever I have left to Mr. Tanner.

I would just like to conclude my view.

I think I have a differing view with our Committee Chairman with respect on the role of technology transfer and CRADAs and business partnerships.

I think that within a limited area and under close supervision and oversight, that is the policy we should adopt. I understand that there are some individual allegations of difficulty made about the ATP program. To me, that's more a matter of oversight than a matter of discontinuing a program.

But I have to conclude by saying I'm still concerned about the total figures. I've consistently voted against busting the budget and Chairman Walker's figures have been shown to be accurate, I believe, up until now.

So that's my problem here more so than the ATP program.

I think my time has expired. Can I ask—

Mr. TANNER. Can I answer his question?

Mr. SCHIFF. —Can I ask unanimous consent for another minute?

The CHAIRMAN. Just one minute.

Mr. SCHIFF. I yield to Mr. Tanner then.

Mr. TANNER. The appropriators appropriated $715 million. We are slightly above that. What has happened is we have allowed the appropriators to prioritize the matters within our budget so that

we're very close on the NIST core programs, my amendment and the Chairman's mark.

Where we differ is the appropriators have decreased the external programs at NIST by 81 percent. We haven't done that, they've done that.

What we've tried to do is conform our amendment within the $700 million umbrella so that we set the priorities within that $700 million umbrella, not the appropriators.

That's what my amendment attempts to do, and tries to preserve, as best we can, the ATP and MEP programs.

Mr. SCHIFF. I think my time has doubly expired. I yield back to the Chairman with thanks.

Mr. TANNER. I'm sorry. I'm taking too much time.

The CHAIRMAN. Are there additional members wishing to be recognized on the substitute?

[No response.]

The CHAIRMAN. If not, the Chair is prepared to close the—

Mr. TANNER. I suffer no allusion that we're going to win, Mr. Chairman, so—

The CHAIRMAN. Well, the Chair will close the debate.

As the Chair has indicated, this is $410 million over the number in our bill, which is in line with the budget. I'm not certain where the gentleman gets the $715 million.

The fact is that in this particular account, the appropriators do $263 million for the core programs, versus our authorization at $265 million.

They go zero for ATP.

They go $81 million for MEP and $60 million for construction.

That's the totality of what the appropriators did. That doesn't add up anywhere close to $715 million.

The fact is that the authorization bill we have before us today is very close to where the appropriators ended up on the core program.

Like the program that the appropriators have done, we are zero on ATP.

The appropriators have put additional money in for MEP, which I think at some point this Committee may want to address, but at this point, they are higher than we are there, and their number for construction is right where we are.

And so in fact the authorization bill that is before us, with the exception of the MEP program, is right on target with where the appropriators came down.

And so I don't where that particular figure comes from.

What I would suggest to the Committee is that we should not approve a substitute which goes well outside the caps and takes us completely out of the ball park with regard to what's happening in the Appropriations Committee.

We do want to, I think at some point, as a Committee, reflect upon the fact that the appropriators have moved to some degree and freed up money in the MEP program.

That's the reason why we have separated out the bills to give us an opportunity to do that work once we understood the parameters in which we might have an opportunity to work, which would be somewhat different from the budget.

But the budget numbers of course for both MEP and for ATP are zero. And so that—

Mr. BOEHLERT. Would the Chairman yield for a question?

The CHAIRMAN. Sure, I'll be happy to yield.

Mr. BOEHLERT. Does the Chairman's mark have any money for the Malcolm Baldridge Award program?

Because as a co-author of that, I have particular pride in it.

The CHAIRMAN. The gentleman can be assured we have $3.4 million for the Malcolm Baldridge Award.

Mr. BOEHLERT. And secondly, I'm comforted a great deal by your comments regarding the Manufacturing Extension Partnership because I think that's a very valuable program and I think we have to revisit that.

I think it's working, it's working for America, particularly helpful for small business, so I'm comforted by that too.

I thank the Chairman.

The CHAIRMAN. I thank the gentleman.

Mr. TANNER. Mr. Chairman, I have a parliamentary inquiry, if I may.

The CHAIRMAN. The gentleman will state his parliamentary inquiry.

Mr. TANNER. The numbers that have been appropriated are, according to my figures, they've appropriated $404 million for NIST, and we marked up in our subcommittee, $343 million for the core programs.

What we do to adjust this $61 million, we adjusted Mr. Rohrabacher's allocation upward by $267 million last week, so there's $61 million there, and I'm just, I'm asking what we do with that.

The CHAIRMAN. If the gentleman would, I'm not certain that's a parliamentary inquiry, but—

Mr. TANNER. It's a question.

The CHAIRMAN. No, I yield to the gentleman for the purpose of the question.

That's the reason why we have the two separate bills, I would say to the gentleman.

We have a separate bill available that we can go back and revisit the issues of the external programs.

What we're doing here is a bill aimed at trying to make certain that we move forward with the internal program.

Now, you know,—

Mr. TANNER. Does the Chair have any idea when 1871 might be before the Committee?

The CHAIRMAN. I don't know. I don't know precisely when that's going to be, at the present time, because I want to take a look at exactly where the budget numbers came down and so on.

But given the fact that we may have to set some priorities in that area, we may want to figure out a way to change the numbers in that particular bill.

But it's the reason why we proceeded as we did in his subcommittee, I think over his protest, to give us an option to deal with this at some point at a later date.

Mr. TANNER. I don't want to belabor the point, Mr. Chairman, but some of us are very interested in seeing 1871 at least to go

markup at some point in time in this year of Congress, not this session of Congress, but this calendar year.

Does the Chair think that's going to be possible?

The CHAIRMAN. That's a possibility.

Mr. TANNER. Is it a probability?

The CHAIRMAN. Well, I would say at the moment it's a possibility.

Well, the Chair has concluded debate here, as the Chair said. I mean I have asked members whether or not they wanted to make statements. When the Chair moves to conclude debate, it is my intention not to engage in dialogue with members at that point.

And we have moved to a conclusion.

My time has expired.

And the Chair is prepared to put the question.

All those in favor of the Tanner amendment will say aye.

[Chorus of ayes.]

The CHAIRMAN. And those opposed will say no.

[Chorus of nays.]

The CHAIRMAN. In the opinion of the Chair, the noes have it. The noes have it, the amendment—

Mr. BROWN. Roll call, Mr. Chairman.

The CHAIRMAN. The gentleman from California requests a roll call vote.

The Clerk will call the roll.

Ms. SCHWARTZ. Mr. Walker?

Mr. WALKER. No.

Ms. SCHWARTZ. Mr. Walker votes no.

Mr. Sensenbrenner?

Mr. SENSENBRENNER. No.

Ms. SCHWARTZ. Mr. Sensenbrenner votes no.

Mr. Boehlert?

Mr. BOEHLERT. No.

Ms. SCHWARTZ. Mr. Boehlert votes no.

Mr. Fawell?

Mr. FAWELL. No.

Ms. SCHWARTZ. Mr. Fawell votes no.

Mrs. Morella?

Mrs. MORELLA. Mrs. Morella votes no.

Mr. Weldon of Pennsylvania?

[No response.]

Ms. SCHWARTZ. Mr. Rohrabacher?

Mr. ROHRABACHER. No.

Ms. SCHWARTZ. Mr. Rohrabacher votes no.

Mr. Schiff?

Mr. SCHIFF. No.

Ms. SCHWARTZ. Mr. Schiff votes no.

Mr. Barton?

Mr. BARTON. No.

[No response.]

Ms. SCHWARTZ. Mr. Calvert?

Mr. CALVERT. No.

Ms. SCHWARTZ. Mr. Calvert votes no.

Mr. Baker?

Mr. BAKER. No.

Ms. SCHWARTZ. Mr. Baker votes no.
Mr. Bartlett?
Mr. BARTLETT. No.
Ms. SCHWARTZ. Mr. Bartlett votes no.
Mr. Ehlers?
Mr. EHLERS. Mr. Ehlers votes no.
Mr. Wamp?
Mr. WAMP. No.
Ms. SCHWARTZ. Mr. Wamp votes no.
Mr. Weldon of Florida?
Mr. DAVE WELDON. No.
Ms. SCHWARTZ. Mr. Weldon votes no.
Mr. Graham?
Mr. GRAHAM. No.
Ms. SCHWARTZ. Mr. Graham votes no.
Mr. Salmon?
Mr. SALMON. No.
Ms. SCHWARTZ. Mr. Salmon votes no.
Mr. Davis?
Mr. DAVIS. No.
Ms. SCHWARTZ. Mr. Davis votes no.
Mr. Stockman?
Mr. STOCKMAN. No.
Ms. SCHWARTZ. Mr. Stockman votes no.
Mr. Gutknecht?
Mr. GUTKNECHT. No.
Ms. SCHWARTZ. Mr. Gutknecht votes no.
Mrs. Seastrand?
Mrs. SEASTRAND. No.
Ms. SCHWARTZ. Mrs. Seastrand votes no.
Mr. Tiahrt?
Mr. TIAHRT. No.
Ms. SCHWARTZ. Mr. Tiahrt votes no.
Mr. Largent?
[No response.]
Ms. SCHWARTZ. Mr. Hilleary?
Mr. HILLEARY. No.
Ms. SCHWARTZ. Mr. Hilleary votes no.
Mrs. Cubin?
[No response.]
Ms. SCHWARTZ. Mr. Foley?
Mr. FOLEY. No.
Ms. SCHWARTZ. Mr. Foley votes no.
Mrs. Myrick?
Ms. MYRICK. No.
Ms. SCHWARTZ. Mrs. Myrick votes no.
Mr. Brown?
Mr. BROWN. Aye.
Ms. SCHWARTZ. Mr. Brown votes yes.
Mr. Hall?
Mr. HALL. Yes.
Ms. SCHWARTZ. Mr. Hall votes yes.
Mr. Traficant?
[No response.]

Ms. SCHWARTZ. Mr. Hayes?
[No response.]
Ms. SCHWARTZ. Mr. Tanner?
Mr. TANNER. Yes.
Ms. SCHWARTZ. Mr. Tanner votes yes.
Mr. Geren?
Mr. GEREN. No.
Ms. SCHWARTZ. Mr. Geren votes no.
Mr. Roemer?
Mr. ROEMER. Aye.
Ms. SCHWARTZ. Mr. Roemer votes yes.
Mr. Cramer?
Mr. CRAMER. Yes.
Ms. SCHWARTZ. Mr. Cramer votes yes.
Mr. Barcia?
Mr. BARCIA. Yes.
Ms. SCHWARTZ. Mr. Barcia votes yes.
Mr. McHale?
Mr. MCHALE. Yes.
Ms. SCHWARTZ. Mr. McHale votes yes.
Ms. Harman?
[No response.]
Ms. SCHWARTZ. Ms. Johnson?
Ms. JOHNSON. Yes.
Ms. SCHWARTZ. Ms. Johnson votes yes.
Mr. Minge?
Mr. MINGE. No.
Ms. SCHWARTZ. Mr. Minge votes no.
Mr. Olver?
Mr. OLVER. Yes.
Ms. SCHWARTZ. Mr. Olver votes yes.
Mr. Hastings?
[No response.]
Ms. SCHWARTZ. Ms. Rivers?
Ms. RIVERS. Oh, yeah.
Ms. SCHWARTZ. Ms. Rivers votes yes.
Ms. McCarthy?
Mrs. MCCARTHY. Yes.
Ms. SCHWARTZ. Ms. McCarthy votes yes.
Ms. Ward?
Mr. WARD. Yes.
Ms. SCHWARTZ. Mr. Ward votes yes.
Ms. Lofgren?
Ms. LOFGREN. Yes.
Ms. SCHWARTZ. Ms. Lofgren votes yes.
Mr. Doggett?
[No response.]
Ms. SCHWARTZ. Mr. Doyle?
Mr. DOYLE. Yes.
Ms. SCHWARTZ. Mr. Doyle votes yes.
Ms. Jackson Lee?
Ms. JACKSON LEE. Aye.
Ms. SCHWARTZ. Ms. Jackson Lee votes yes.
Mr. Luther?

Mr. LUTHER. No.

Ms. SCHWARTZ. Mr. Luther votes no.

[Pause.]

The CHAIRMAN. The Clerk will report.

Ms. SCHWARTZ. Mr. Chairman, amendment roll call vote is: yes, 15; no, 26.

The CHAIRMAN. The amendment is not agreed to.

The next amendment on the—

Mr. OLVER. Mr. Chairman?

The CHAIRMAN. The gentleman from Massachusetts.

Mr. OLVER. Mr. Chairman, I have a point of parliamentary inquiry, which was really what I was about to do before. It was not to extend debate on the particular amendment.

I had come back in from the floor and listened to the end of what my colleague from Tennessee had been asking, and he had been trying to find out, as I remember it, when 1871 would be brought to the floor.

And—

The CHAIRMAN. The gentleman is not stating a parliamentary inquiry. The gentleman needs to strike the last word, and propound a question.

Mr. OLVER. Mr. Chairman, if I may then try the parliamentary inquiry.

Would a motion to consider HR 1871 be in order?

The CHAIRMAN. We are in the process of considering this particular bill. I think the gentlelady next has an amendment that is essentially that the bill 1871 that she seeks to put into this bill.

And the question will be whether or not that can be debated at this point. But the Committee has not been notified properly of taking up another piece of legislation, so it would not be appropriate for the Chair to bring that legislation before the Committee since the Committee has not been appropriately notified.

The gentleman, Mr. Tanner, offered an amendment to the legislation that we have before us. That's an entirely appropriate action for the Committee to be taking at the present time, providing the amendments are germane.

Mr. OLVER. Okay, thank you.

The CHAIRMAN. The gentlelady from Texas is recognized for her amendment.

[The amendment follows:]

AMENDMENT TO H.R. 1870

OFFERED BY MS. EDDIE BERNICE JOHNSON OF TEXAS

Page 2, strike line 1 and insert in lieu thereof the following:

1 **TITLE I—GENERAL**
2 **AUTHORIZATIONS**

3 **SEC. 101. AUTHORIZATION OF APPROPRIATIONS.**

Page 3, line 13, redesignate section 3 as section 102.

Page 4, line 11, redesignate section 4 as section 103.

Page 5, line 5, redesignate section 5 as section 104.

Page 5, after line 9, insert the following new title:

4 **TITLE II—INDUSTRIAL**
5 **TECHNOLOGY SERVICES**

6 **SEC. 201. AUTHORIZATION OF APPROPRIATIONS.**

7 There are authorized to be appropriated to the Sec-
8 retary of Commerce for the Industrial Technology Services
9 activities of the National Institute of Standards and Tech-
10 nology for fiscal year 1996—

1 (1) for the Advanced Technology Program
2 under section 28 of the National Institute of Stand-
3 ards and Technology Act (15 U.S.C. 278n), such
4 sums as may be appropriated; and
5 (2) for the Manufacturing Extension Partner-
6 ships program under sections 25 and 26 of the Na-
7 tional Institute of Standards and Technology Act
8 (15 U.S.C. 278k and 278l), such sums as may be
9 appropriated.

10 **SEC. 202. NATIONAL INSTITUTE OF STANDARDS AND TECH-**
11 **NOLOGY ACT AMENDMENTS.**

12 Section 28 of the National Institute of Standards and
13 Technology Act (15 U.S.C. 278n) is amended—
14 (1) by striking "or contracts" in subsection
15 (b)(1)(B), and inserting in lieu thereof "contracts,
16 and, subject to the last sentence of this subsection,
17 other transactions";
18 (2) by inserting "and if the non-Federal partici-
19 pants in the joint venture agree to pay at least 50
20 percent of the total costs of the joint venture during
21 the Federal participation period, which shall not ex-
22 ceed 5 years," after "participation to be appro-
23 priate,";
24 (3) by striking "provision of a minority share of
25 the cost of such joint ventures for up to 5 years, and

1 (iii)" in subsection (b)(1)(B), and inserting in lieu
2 thereof "and";
3 (4) by striking "and cooperative agreements" in
4 subsection (b)(2), and inserting in lieu thereof ", co-
5 operative agreements, and, subject to the last sen-
6 tence of this subsection, other transactions";
7 (5) by adding after subsection (b)(4) the follow-
8 ing:
9 "The authority under paragraph (1)(B) and paragraph
10 (2) to enter into other transactions shall apply only if the
11 Secretary, acting through the Director, determines that
12 standard contracts, grants, or cooperative agreements are
13 not feasible or appropriate, and only when other trans-
14 action instruments incorporate terms and conditions that
15 reflect the use of generally accepted commercial account-
16 ing and auditing practices."; and
17 (6) by adding at the end the following new sub-
18 section:
19 "(k) Notwithstanding subsection (b)(1)(B)(ii) and
20 subsection (d)(3), the Director may grant extensions be-
21 yond the deadlines established under those subsections for
22 joint venture and single applicant awardees to expend
23 Federal funds to complete their projects, if such extension
24 may be granted with no additional cost to the Federal

1 Government and it is in the Federal Government's interest

2 to do so.".

Ms. JOHNSON. Thank you, Mr. Chairman.

This amendment is being placed before us without appropriating any dollars to attempt to use whatever efforts we can to bring the ATP and the MEP programs, which are valuable programs, to worthy consideration of the Full Committee.

These programs were considered in subcommittee and voted out.

And I believe very strongly that they are as important as the internal programs and I simply wanted a mechanism, Mr. Chairman, that the Full Committee would have the opportunity to vote on these programs.

The situation before us is not knowing if we're going to have them in full consideration, and feeling that the futility of going through the subcommittee, spending time considering the bills, which will not be considered by the Full Committee, and throughout our consideration of authorizations this week, we've been repeatedly told that we must remain relevant to the appropriations process.

And the only way we can be, with these programs to be considered, is to attempt to find some mechanism by which we can consider them in Full Committee.

I would urge support of this amendment.

The CHAIRMAN. Are there additional people that wish to be heard on the amendment?

Ms. McCarthy?

Mrs. MCCARTHY. Thank you, Mr. Chairman.

I am speaking on behalf of the amendment and I would ask unanimous consent to revise and extend my remarks so that I might just summarize from them for purposes of discussion.

The CHAIRMAN. Without objection.

Mrs. MCCARTHY. Thank you, Mr. Chairman.

Mr. Chairman, I applaud the woman for offering this amendment. I think that these programs have been proven very effective, not only in our nation but particularly stand as a symbol to our competitors in Japan and Germany and other parts of the world who do assist manufacturers to become successful.

The Germans have 46 centers that specialize in manufacturing success. The Japanese have over 170 of these centers.

The U.S. which, as we know, covers a lot more land and a much larger economy, has only 42 of these. They are a success story in my district, Mr. Chairman, and I would like to insert the names of those companies which benefit, and I would also like to insert into the record an investment profile of the dollars invested by the Federal Government and Missouri State Government that profiles our return on investment.

I think when we are looking to compete on the international marketplace, programs such as these that Representative Johnson is putting forward in her amendment, are essential for that world competition.

And it does speak to our national psyche that it would enable us to build something better and to compete against any nation in the world if we are willing to put a priority behind our small businesses and our medium-sized manufacturers.

So I would hope, Mr. Chairman, that the Committee would support the gentlelady's amendment today.

I have not heard any reasons, both in subcommittee or even in this Committee, as to why this investment, which is in good faith with the Government and our private businesses, should not continue.

I think it is essential and I support the woman's amendment.

[The prepared statement of Ms. Johnson follows, including abovementioned attachments:]

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Re: [illegible]

Mr. Chairman I am disappointed that we are not marking up the extramural programs of NIST. Why is it that after only one hearing we eliminate programs which have proven effective in keeping our nation competitive? As a nation we feel threatened by the effectiveness of the Japanese and the German economy in achieving manufacturing success. The Japanese and the German government assist manufacturers to become successful. The Germans have 46 centers specializing in manufacturing success, while the Japanese have over 170 of these centers. The U.S., covering a lot more land and a much larger economy, has only 42 of these centers. By separating the extramural programs from NIST's intramural program in this mark-up we are effectively killing ATP and MEP. When asked when the extramural programs are going to be marked up, we hear nothing but foot shuffling and silence on the other side.

Our Mid-America Manufacturing Technology Center (MAMTC) in the Greater Kansas City Area serves a whole list of companies throughout the community, servicing thousands of small and medium size businesses in Kansas, in the fifth district of Missouri, and the entire eastern half of Missouri, Oklahoma, and northern Arkansas. Mr. Chairman I would like to insert the names of those companies which benefit by MAMTC into the

record. I would also like to insert into the record an investment profile of dollars invested by the federal and Missouri State government into MAMTC which profiles our return on investment. MAMTC is a center which combines the dynamics of the university and our effervescent students, and the practical application in today's manufacturers. Combining academia with emerging and developing businesses seems to me a synenergy which benefits the community and our nation's competitiveness.

Americans must be ready to compete in the international marketplace. In the pure world of economics trade may be something which will happen spontaneously and successfully without any government assistance. But when we have economic competitors which not only assist their export industries, but actively support and subsidize them, we need as a nation to compete effectively. What is more pure to our national pschye than to build something better than anyone? Our nation can out-compete any nation in the world if an environment is fostered to help our small and medium size manufacturers.

It seems almost deja vu when we hear of the elimination of programs

which allow our businesses to compete with tools required to exist in the cut-throat atmosphere of our global economy and tell our manufacturing centers and our emerging technology centers that they are on their own. I have not heard from one of my Republican colleague on why we should kill these programs or how to address businesses who invested in good faith with the government, in risky, long-term technology development and half way through the government ~~so~~ abrogates existing contracts.

To understand that both of these programs deserve funding, yet to share in the complicity of this undertaking by your silence is unacceptable. Please consider your vote carefully and support the [redacted] amendment.

Johnson

Karen McCarthy

MAMTC MISSOURI

Giving manufactures the edge.

To: The Honorable Karen McCarthy
Attention: Carol Whitaker

From: Glenn Roberts, Regional Director

Date: June 16, 1995

Company	Contact	Phone Number
American Echo, Inc.	Martin Smoler	816-531-4361
Avis Booth Co.	Jerry Darnell	816-421-5939
Brunson Instruments Co.	Dieton Brunson	816-483-3187
Butler Manufacturing Co.	Gary DeRigne	816-968-3540
Clay & Bailey Mgf. Co.	Ron Borst	816-924-3903
Graniteville Stone Products	Tom Fish	816-471-6342
Harmon Electronics, Inc.	Gene Harmon	816-249-3112
J.C. Plastics, Inc.	Jalmer G. Nelson	816-796-3530
Labconco Corporation	Mike Wyckoff	816-333-8811
Metcraft, Inc.	Vince Boreas	816-761-3250
Missouri Table & Chair Co.	Bill Chipman	816-690-3775
Mr. Longarm, Inc.	Bill Gulledge	816-537-6777
Pioneer Palet Brokerage	Robert Rosell	816-231-4004
R & D Tool & Engineering Co.	Brian Mathews	816-525-0353
Schroer Manufacturing Co.	Richard Donahue	816-471-0488
Steel Mfg. & Warehouse Co.	Charles Donnelly	816-842-9143
Step 'N' Seat, Inc.	Jerry Thompson	816-252-3111
Taylor Cable Products, Inc.	Ray Montes	816-765-5011
Triangle Tool & Molding, Inc.	John Hansen	816-761-9337
Western Adhesives	Bill Floyd	816-421-3000

NIST/Mid-America Manufacturing Technology Center
Kansas City, Missouri Regional Office
Business & Technology Center
6899 Executive Drive, Suite 178 Kansas City, MO 64120

Return on Investment in MAMTC
State of Missouri

		FY 92 Ending 31-Mar-92	FY93 Ending 31-Mar-93	FY94 Ending 31-Mar-94	FY95 Ending 31-Mar-95	Total To Date
Jobs Created or Retained*		9	11	10	80	101
State of Missouri Cash Expenditures		$13,407	$65,867	$120,000	$173,415	$392,719
Federal Expenditures in Missouri		$4,514	$56,758	$360,485	$291,067	$763,114
Average Annual Wage ($12/hour)		$24,960	$24,960	$24,960	$24,960	$24,960
Tax Assumptions on Average Wage						
State of Missouri						
Income Tax	$674					
Unemployment Taxes Generate	$254					
Sales Taxes	[illegible]					
Total	$1,919					
Federal Government						
Income Tax	$3,345					
Unemployment Taxes Generate	$64					
FICA/Medicare Taxes	$3,919					
Total	$7,128					
Cost of Jobs Created or Retained (Investment/ Jobs)						
Missouri Cost per Job			$7,806	$12,000	$2,166	$3,888
Federal Cost per Job			$5,070	$36,049	$3,638	$7,556
Return on Investment						
State of Missouri						
Annual Tax Benefit (Jobs X Taxes)		$0	$19,976	$18,160	$145,280	$183,416
Payback (in months)			51.00	79.30	14.32	25.68
Federal Government						
Annual Tax Benefit (Jobs X Taxes)		$0	$78,404	$71,277	$570,214	$719,896
Payback (in months)			15.12	62.04	5.13	12.72
Other Economic Impacts on Manufacturing Clients						
Annual Sales Increases*		$0	$1,250,000	$1,200,000	$8,300,000	$11,750,000
Annual Cost Decreases*		$0	$54,000	$0	$8,700,000	$8,754,000
Increased Capital Spending for Modernization*		$0	$0	$260,000	$6,765,275	$6,965,275
Annual Payroll Increase		$0	$274,560	$249,600	$1,996,800	$2,520,960

* As reported by Missouri client companies to a third party surveyor for completed projects. Telephone surveys are conducted within 30 days of completion of projects. No multipliers have been included.

5/15/95

Mr. SCHIFF. Mr. Chairman?

The CHAIRMAN. I thank the gentlelady.

Mr. Schiff?

Mr. SCHIFF. Mr. Chairman, as I look at the lady from Texas' amendment, it authorizes such sums as may be appropriated, in terms of the authorization for the Advanced Technology Program, and also for the Manufacturing Extension Partnership.

Now I have to say, speaking for myself, it was a difficult choice for me in the last vote, because I do support these programs, and it's a choice of accepting figures and knowing that our Chairman is also the second ranking republican on the Budget Committee, I have found the Chairman's expertise in these matters to be very precise.

But in this particular case, if I'm reading this correctly, and I'd invite the author of the amendment to tell me if I'm not, we're going back to a completely old style of authorization to which I object for any authorization, any kind of program, because this is exactly the kind of authorization that makes authorizers non-players in a system.

It sounds good. We get to go back to the constituency that supports these programs and say, we've just voted to give all the money in the world to this program if we can find it.

But I think that is precisely what has pushed authorizers aside into irrelevancy over the last number of years, and especially for that reason I oppose the amendment.

I'm glad to yield to the lady whatever time I have left.

Ms. JOHNSON. I just want to point out that it's the same language we used in the other programs as well.

I purposely attempted to use language that would not earmark dollars, that would be cooperative. This is not an effort to attempt to bust the budget, bust any caps, or attempt to be insulting to the leadership of this Committee.

It is really an effort to attempt to move these programs to a level of consideration so that we just don't forget that they are very useful programs for establishing jobs for the future.

There is a network that has started that is progressive around this country affecting every state in a positive manner, attempting to be sure that we have jobs for the future, which we will need very badly.

We're a major technology and I don't know how we plan to put everybody to work unless there are some efforts going on like this to coordinate and direct manufacturing and to coordinate the efforts in technology.

I don't see how we could possibly feel that we would have a positive future—

Mr. TANNER. Will the gentlelady yield?

Mr. SCHIFF. I believe it's my time. If I can reclaim my time for a moment, I think it's about used up, I just want to say that, once again, I do share the view that there is a proper role for government to cooperate with industry.

Now, that's not unlimited but I think it's there, it's precise and it's shown in a number of different ways. But I think that if we're going to try to keep programs that have to be done within the total budget process, I think Mr. Tanner made that attempt, but I just

have to say, with the utmost respect to what the lady wants to do, I think this amendment is farther away that Mr. Tanner's amendment was.

I yield back to the Chair any time I have left.

The CHAIRMAN. The time of the gentleman has expired.

Mr. TANNER. Mr. Chairman, could I try to answer Mr. Schiff.

The CHAIRMAN. The gentleman is recognized for five minutes.

Mr. TANNER. I won't take long, John.

You have an excellent point. What Ms. Johnson's amendment is doing is using, is combining the exact two bills that were passed by the subcommittee on a party line vote, the republicans winning of course, and what she has done is take the NIST core appropriation bill, 1870, and added the exact same wording that's in bill 1871 to the 1870, out of desperation to get these two programs before the Full Committee. It's the only way we can do it.

Now, anybody who voted for these two bills in subcommittee, I can't imagine why they'd vote against this amendment. It is the same exact language in this bill that was put in and written by the republican majority in the subcommittee and known as 1871.

Now if you are serious about being for some recognition of ATP and MEP in the external program at NIST, how one could vote against this is totally beyond me.

The CHAIRMAN. The time of the gentleman has expired.

Are there other members seeking recognition?

Mr. Olver.

Mr. OLVER. Thank you, Mr. Chairman.

If I may continue that, in response to the gentleman from New Mexico, it was only a matter of a few days ago, it may seem like a century but only a short time that we had the Department of Energy authorization bill here, and the good Chairman had gone through considerable negotiation with the appropriators and found that there was an additional $270 million that could be added to the previous allocation to the subcommittee, so that there was then a $270 million increase through an en bloc amendment that the Chairman had negotiated.

Now we understand that the Commerce Committee has now reported out and has put in a considerable amount of money for the MEP program which is part of the program which would be part of 1871, which is part of 1871 clearly, and obviously the Chairman has had a role in negotiating that sum of money.

What I don't understand then is why we are not bringing these two, 1870 and 1871, both of them coming out of the subcommittee, both of them covering material which the majority seems to be strongly in favor of, and which represents important material.

The comments have been made earlier by Mr. Boehlert that the Manufacturing Extension Program is an extremely important program. The Japanese have hundreds of centers that provide government and academia and the business world working together. The Germans similarly have a good number of those.

If this legislation goes through, and if the authorization were followed by the Appropriation Committee, we would not have a single one of those kinds of centers left funded, and clearly the Chairman doesn't wish to have that because he's already negotiated with the

appropriators in the Committee Committee to get the MEP number that's there.

So it seems to me it would be most appropriate for the addition, bringing these 1870 and '71 back together again, so that we can go forward with whatever can be gleaned in these important programs from the appropriators in Commerce, State, Justice, who are presently about to report out, and keep the programs going, since there seems not to have been any intent to bring 1871 to the floor, to the floor of this Committee.

So I certainly would support the gentlewoman from Texas' amendment.

The CHAIRMAN. Well, the Chair would simply reply that the gentleman has made a statement with regard to intent, which I don't believe is anywhere close to the Chairman's position.

The Chairman has suggested that it may be possible to bring the bill that deals with the MEP to this Committee later on. And I stated that earlier. Maybe the gentleman wasn't in the room but, you know, this has not been a sham process in any way, and we intend to move forward.

That is not on the roster for today, but it has been reported from the subcommittee and is eligible for consideration at a later date.

The Chair would also state to the gentleman that he is prepared to take an amendment that's going to be offered later by Mr. McHale, indicating that we are not going to preclude further authorization of appropriations for the Manufacturing Extension Partnerships.

I already told Mr. McHale I'm prepared to accept that amendment, and so I just think the gentleman ought to understand where the Chair is coming from on this.

Ms. Lofgren had her hand up.

Ms. LOFGREN. Thank you, Mr. Chairman.

I strongly believe that we ought to accept Eddie Bernice Johnson's amendment.

And I'm new here and I have strong feelings about these programs really based on what I saw when I was working in local government in San Jose and the companies that I met with and the new scientific and technological advances that are being made with the help of the ATP program in particular.

We don't have an MEP center in Northern California. I've been convinced by the testimony that I've heard that they have provided a useful service to the country, but I don't have firsthand knowledge of those programs. I do on ATP.

I recognize that there are members of this Committee who don't see this the same way I do. But I do think it's important that we deal with it head on, straight up, and either go forward or don't go forward, and be held accountable for the decision that we make.

And I don't assign any motives to anybody but it seems to me, as a newcomer, that the whole budget train is leaving the station. And if these programs come up at a much later date, I'm not sure that it's relevant to anything and I'd like the people who are working on these programs, the scientists and the engineers, the companies that went out and put their own money on the line to do something like owning the flat panel display industry in this country so we don't have to go begging the Japanese for that type of tech-

nology and be vulnerable to them in our defense industries, as well as our commercial industries, I'd like those companies and those scientists to know where we stand.

I think we ought to make a decision. I think we ought to do it today in a timely manner and see where the chips fall. I mean, my sense is, you know, or my guess, I don't know that maybe a majority of the Committee agrees with the statements that the Chairman has made in the past about these programs.

I don't agree with that, but I think we owe it to the public to say where we stand now today as part of this process. And the only vehicle for that that I can see is, given the division that happened in the subcommittee, is to adopt this amendment and then move forward and be up front with the country on where we are.

And with that, I would yield back the balance of my time.

Thank you, Mr. Chairman.

The CHAIRMAN. Are there additional members that wish to be heard on the amendment?

The gentlelady was recognized for her amendment. She had her five minutes.

The gentlelady from Michigan.

Ms. RIVERS. Thank you, Mr. Speaker.

I rise in support of this amendment and would yield my time to my colleague from Texas, Ms. Johnson.

Ms. JOHNSON. Thank you, Congresswoman.

Mr. Chairman and members, I simply want to say that my, as has been stated, my amendment merely incorporates the National Institute of Standards and Technology Industrial Technology Services Act of 1995 into the framework of the American Technology Advancement Act.

The exact language of the bill, as passed by the subcommittee, is inserted into this bill before us today. The simpler, in simpler words, the amendment simply combines the two bills.

This is to avoid the probability that the Committee will simply not consider, in time, these external programs for us to be relevant in the appropriations process.

I know that many of my colleagues on both sides of the aisle are supportive of these programs. And through this amendment, they won't simply expire because of the lack of life in time.

I believe that the MEP programs established in Arizona, throughout California, Connecticut, Chicago, Delaware, Iowa, Georgia, Texas, Oklahoma, the midwest, all over New York, programs that are creating new jobs, and I think they are worthy.

I would simply ask, Mr. Chairman, that this Committee have an opportunity to vote up or down in a democratic fashion on these programs.

And I thank you.

Thank you, and I'll yield back.

The CHAIRMAN. Are there any other members—

Ms. RIVERS. If I have any additional time left, I would yield it to Mr. Olver.

Mr. OLVER. I thank the gentlewoman for yielding the remainder of that time.

It seems to me that this is the cleanest way, if the subcommittee believes that these two bills should be considered, all the Congress-

woman from Texas' amendment does is put the two bills back together.

We are then dealing with this whole issue of both the internal and the external programs under NIST.

And the subcommittee certainly had put those bills out favorably, both of them.

The Appropriations Committee is already acting in such a way as to provide some moneys for the external programs under 1871.

And this would be the simplest way to put those together and then leave the best flexibility for the Chairman of the Committee to negotiate with the appropriators to get the best ending deal for the programs that come under the external Manufacturing Extension Program and under the ATP, if they so choose to appropriate.

The authorization for appropriation is not specified and leaves the flexibility for that to be done and to cover what the appropriators are already doing.

So I would hope that the amendment would be adopted.

The CHAIRMAN. The time of the gentlelady has expired.

Are there additional members that wish to be heard on this amendment?

Mr. BROWN. Mr. Chairman?

The CHAIRMAN. The gentleman from California.

Mr. BROWN. I'm going to ask to be recognized, merely to raise a point which the Chairman's repeated statements that, after he's asked this question and nobody responds, then he can speak, and nobody else can speak after him.

Now we're proceeding in Committee under the five-minute rule and we are presumably following the processes of the House with regard to the five-minute rule.

And in the processes of the House under the five-minute rule, you may continue to rise and speak on an amendment until nobody else wishes to speak. That doesn't mean that any particular person can choose to close debate under the five minute rule, such as you're doing.

Now I am not an expert parliamentarian, but I will ask the Chair to kindly request his staff to provide some reference to the rules which gives him the right to do what he is attempting to do here.

Now, as a courtesy, I feel that we should oblige you in these situations. I think it's a reasonable way to proceed, but I don't think that there's any way you can enforce this under any rule that I know of.

Mr. OLVER. Mr. Brown, would you yield?

Mr. BOEHLERT. Would you yield?

Mr. BROWN. I'd be happy to yield, yes.

Mr. BOEHLERT. I'm sitting here as an interested participant in this, and I've watched the Chair, and I think the Chair is being eminently fair.

I want to get out as much as anybody else does, but the Chair has, quite frankly, I've urged the Chair to speed it up a little bit, but the Chair has said, is there anyone else that wishes to be recognized. Looks to the left, looks to the right, pauses, then says, the Chair will now close the debate, when everyone has had an opportunity.

I think to suggest that the Chair's is being unfair is unfair.

Mr. BROWN. I wasn't suggesting the Chair was unfair. In fact, I was suggesting that I would like to follow that procedure myself, but I know of no rule under which I can follow it.

The CHAIRMAN. I would say to the gentleman, there is no rule. It has long been a tradition. It was the custom that was granted the courtesy of the Chair when the gentleman was the Chairman of this Committee who often, who was allowed to close the debate as these amendments proceeded forward.

The Chair has simply assumed that that custom would be observed.

And I have attempted to allow virtually everybody to speak any time they wanted to speak and have even allowed people to ask me questions, as long as it was within my time.

But I've also tried to hold to the rule that the Chairman should not have more than the five minutes that I'm allocating to other members.

Mr. BROWN. I understand that. And as I've said before, I'm not alleging any unfairness.

The CHAIRMAN. Well, then would the gentleman tell me why he thinks my Committee should cite a rule to him on this? Because there is no such rule and the gentleman knows that.

Mr. BROWN. I do know that, and that's why I raised the question.

The reason I raised the question, in addition, is that the Chairman has a very fine propensity to conclude debate with a serious of statements with which I generally disagree and which may not even be factual. And I think that it's reasonable that if he does, and I'm not alleging that he always does this, but frequently, if he does, there should be an opportunity for someone to correct the Chairman's statements.

Mr. SENSENBRENNER. Will the gentleman from California yield?

Mr. BROWN. Certainly.

Mr. SENSENBRENNER. The gentleman from California well knows that the rules give the presiding officer the power of recognition. And as a matter of fact, when I first came to Congress and met Speaker O'Neill the first time, he said that that is a rule that should never be compromised because the presiding officer has the responsibility of running the meetings and enforcing decorums.

Secondly, there is a tradition in this House that the right to close debate belongs to those who support the majority viewpoint. So as a result, the recognitions on the floor have always been to the majority party or to those who are supporting the Committee position in the floor of the House of Representatives, for which there is no rebuttal.

So that's the way it's been as long as I've been here, and I know it's been that way as long as the gentleman from California has been there, and that is is that the Committee Chairman always has got the right to close debate.

And if you don't like what he has to say, there is really no chance to get back at that.

Mr. BROWN. Well, I do not like to be put in a position of arguing with the Chairman on a situation like this. On the other hand, I don't believe that what the gentleman said was factual, that I use this same tactic.

I'm sure I would have remembered it if I had.

[Laughter.]

Mr. BROWN. And what I tried to do was to allow every member of the Committee who sought to participate in the debate to do so, whether or not the Chair thought he had the right to close, which I never really did.

But we can, I don't want to belabor this.

If the gentleman can cite the precedents, if he can recite where I used this, if he can cite any rule, that would influence my thinking, but until he does, I think that he is being unnecessarily authoritarian in precluding any debate after he has closed with his final summation on this side.

The CHAIRMAN. The Chair would simply say to the gentleman that the Chair has bent over backwards to see to it that virtually everybody who wants to speak on an amendment gets to speak, the exact same process that the gentleman used when he was Chairman. The gentleman often closed debate, making statements that the gentleman from Pennsylvania did not agree with, but that's the nature of the game.

Someone's going to finish debate in the process. I realize that the minority would love to be able to have the last word on all of the items that come before the Committee.

In this particular case, I think that the Chair does have some responsibility to reflect what he believes to be the opinion of the majority. That's what I've been attempting to do.

If the gentleman can cite to me any member who has not been recognized today, in the course of these deliberations who sought recognition on an amendment, I would appreciate knowing that because the Chair has bent over backwards and at times allowed debate to go on far beyond a point where he thought it was propitious to do so, simply to allow every member to have their say, even though at times they said it two and three times.

Mr. BROWN. Would the Chair—

The CHAIRMAN. I'd be happy to yield to the gentleman.

Mr. BROWN. —in its graciousness, yield to me briefly.

What the Chair said is correct. He has been quite fair in recognizing anyone who sought recognition.

He has said, does anyone else seek recognition, and then he has taken upon himself, when no one did, to close.

I think this is eminently right.

On the other hand, he has vociferously objected to anyone else seeking recognition after he's closed, and it was this point that I sought to see if—

The CHAIRMAN. And the Chair thinks that it his duty at some point to close off debate after everyone has had their say. At some point, you have to bring these questions to a conclusion, and the Chair has sought to give everybody an opportunity to do that.

The Chair has even recognized people during his own time who wished to debate him, as long as it was within the time that had been properly allocated.

Mr. BROWN. But you know the Chair knows full well that we don't have any limitation of debate with regard to amendments in Committee unless—

The CHAIRMAN. Well, as the gentleman from Wisconsin has pointed out, the Chair does have the right of recognition, which is the longstanding right of the Chair, and the Chair has attempted to wield that in a way appropriate to the deliberations.

Mr. BROWN. May I clarify to the Chair the fact that his right to recognition generally is the right to recognize competing persons seeking recognition, not to deny the right of a person seeking recognition when no one else is seeking recognition.

The CHAIRMAN. I would say to the gentleman that the Chair's intention, and I hope its practice, to assure that virtually everyone who wants to speak on these topics gets their chance to speak.

And I would hope that that has been the pattern throughout the day.

Having said that, I do rise in opposition to the gentlelady's amendment. The gentlelady seeks to maintain authorization for a program that is being zeroed in both the budget and by the appropriators in the ATP program.

This is a program which a recent GAO report indicated that NIST has not done a very good job of running, and in fact has made claims for the program that simply cannot be found when the GAO went out to investigate the program.

In my view, this is a program which has some very troubling aspects to it, and I do not believe it is as widely supported by industry as some people seem to believe.

Having said that, it is my belief that this amendment is not the right way to proceed, and I would ask for a no vote.

And with that, the Chair will put the question.

Those in favor of the amendment will say aye.

[Chorus of ayes.]

The CHAIRMAN. Those opposed will say no.

[Chorus of nays.]

The CHAIRMAN. In the opinion of the Chair, the noes have it.

Mr. BROWN. Roll call.

The CHAIRMAN. A roll call has been requested.

The Clerk will call the roll.

Ms. SCHWARTZ. Mr. Walker?

Mr. WALKER. No.

Ms. SCHWARTZ. Mr. Walker votes no.

Mr. Sensenbrenner?

Mr. SENSENBRENNER. No.

Ms. SCHWARTZ. Mr. Sensenbrenner votes no.

Mr. Boehlert?

Mr. BOEHLERT. No.

Ms. SCHWARTZ. Mr. Boehlert votes no.

Mr. Fawell?

Mr. FAWELL. No.

Ms. SCHWARTZ. Mr. Fawell votes no.

Mrs. Morella?

Mrs. MORELLA. No.

Ms. SCHWARTZ. Mrs. Morella votes no.

Mr. Weldon of Pennsylvania?

Mr. CURT WELDON. No.

Ms. SCHWARTZ. Mr. Weldon votes no.

Mr. Rohrabacher?

Mr. ROHRABACHER. No.
Ms. SCHWARTZ. Mr. Rohrabacher votes no.
Mr. Schiff?
Mr. SCHIFF. No.
Ms. SCHWARTZ. Mr. Schiff votes no.
Mr. Barton?
[No response.]
Ms. SCHWARTZ. Mr. Calvert?
Mr. CALVERT. No.
Ms. SCHWARTZ. Mr. Calvert votes no.
Mr. Baker?
Mr. BAKER. No.
Ms. SCHWARTZ. Mr. Baker votes no.
Mr. Bartlett?
Mr. BARTLETT. No.
Ms. SCHWARTZ. Mr. Bartlett votes no.
Mr. Ehlers?
Mr. EHLERS. No.
Ms. SCHWARTZ. Mr. Ehlers votes no.
Mr. Wamp?
Mr. WAMP. No.
Ms. SCHWARTZ. Mr. Wamp votes no.
Mr. Weldon of Florida?
Mr. DAVE WELDON. No.
Ms. SCHWARTZ. Mr. Weldon votes no.
Mr. Graham?
Mr. GRAHAM. No.
Ms. SCHWARTZ. Mr. Graham votes no.
Mr. Salmon?
Mr. SALMON. No.
Ms. SCHWARTZ. Mr. Salmon votes no.
Mr. Davis?
Mr. DAVIS. No.
Ms. SCHWARTZ. Mr. Davis votes no.
Mr. Stockman?
Mr. STOCKMAN. No.
[No response.]
Ms. SCHWARTZ. Mr. Gutknecht?
Mr. GUTKNECHT. No.
Ms. SCHWARTZ. Mr. Gutknecht votes no.
Mrs. Seastrand?
Mrs. SEASTRAND. No.
Ms. SCHWARTZ. Mrs. Seastrand votes no.
Mr. Tiahrt?
Mr. TIAHRT. No.
Ms. SCHWARTZ. Mr. Tiahrt votes no.
Mr. Largent?
[No response.]
Ms. SCHWARTZ. Mr. Hilleary?
Mr. HILLEARY. No.
Ms. SCHWARTZ. Mr. Hilleary votes no.
Mrs. Cubin?
Mrs. CUBIN. No.
Ms. SCHWARTZ. Mrs. Cubin votes no.

Mr. Foley?
Mr. FOLEY. No.
Ms. SCHWARTZ. Mr. Foley votes no.
Mrs. Myrick?
Ms. MYRICK. No.
Ms. SCHWARTZ. Mrs. Myrick votes no.
Mr. Brown?
Mr. BROWN. Yes.
Ms. SCHWARTZ. Mr. Brown votes yes.
Mr. Hall?
Mr. HALL. Yes.
Ms. SCHWARTZ. Mr. Hall votes yes.
Mr. Traficant?
[No response.]
Ms. SCHWARTZ. Mr. Hayes?
[No response.]
Ms. SCHWARTZ. Mr. Tanner?
Mr. TANNER. Yes.
Ms. SCHWARTZ. Mr. Tanner votes yes.
Mr. Geren?
Mr. GEREN. Yes.
Ms. SCHWARTZ. Mr. Geren votes yes.
Mr. Roemer?
Mr. ROEMER. Aye.
Ms. SCHWARTZ. Mr. Roemer votes yes.
Mr. Cramer?
[No response.]
Ms. SCHWARTZ. Mr. Barcia?
Mr. BARCIA. Yes.
Ms. SCHWARTZ. Mr. Barcia votes yes.
Mr. McHale?
Mr. MCHALE. Aye.
Ms. SCHWARTZ. Mr. McHale votes yes.
Ms. Harman?
[No response.]
Ms. SCHWARTZ. Ms. Johnson?
Ms. JOHNSON. Aye.
Ms. SCHWARTZ. Ms. Johnson votes yes.
Mr. Minge?
Mr. MINGE. Yes.
Ms. SCHWARTZ. Mr. Minge votes yes.
Mr. Olver?
Mr. OLVER. Yes.
Ms. SCHWARTZ. Mr. Olver votes yes.
Mr. Hastings?
Mr. HASTINGS. Yes.
Ms. SCHWARTZ. Mr. Hastings votes yes.
Ms. Rivers?
Ms. RIVERS. Yes.
Ms. SCHWARTZ. Ms. Rivers votes yes.
Mrs. McCarthy?
Mrs. MCCARTHY. Yes.
Ms. SCHWARTZ. Mrs. McCarthy votes yes.
Ms. Ward?

Mr. WARD. Yes.
Ms. SCHWARTZ. Mr. Ward votes yes.
Ms. Lofgren?
Ms. LOFGREN. Yes.
Ms. SCHWARTZ. Ms. Lofgren votes yes.
Mr. Doggett?
[No response.]
Ms. SCHWARTZ. Mr. Doyle?
[No response.]
Ms. SCHWARTZ. Ms. Jackson Lee?
Ms. JACKSON LEE. Aye.
Ms. SCHWARTZ. Ms. Jackson Lee votes yes.
Mr. Luther?
Mr. LUTHER. Yes.
Ms. SCHWARTZ. Mr. Luther votes yes.
The CHAIRMAN. How is Mr. Cramer recorded?
Ms. SCHWARTZ. Mr. Cramer's not recorded.
Mr. CRAMER. Please record me as voting yes.
Mr. DOYLE. Mr. Chairman, how am I recorded?
The CHAIRMAN. How is Mr. Doyle recorded?
Ms. SCHWARTZ. Mr. Doyle is not recorded.
Mr. DOYLE. Doyle votes yes.
The CHAIRMAN. Are there further members seeking to be recorded in this vote?
[No response.]
The CHAIRMAN. If not, the Clerk will report.
Ms. SCHWARTZ. Mr. Chairman, the roll call vote is: yes, 19; no, 24.
The CHAIRMAN. And the amendment is not agreed to.
The next amendment on the calendar is Ms. Lofgren, which I understood was going to withdraw.
[The amendment follows:]

AMENDMENT TO H.R. 1870

OFFERED BY MS. LOFGREN

Page 5, after line 9, insert the following new section:

1 SEC. 6. CONTINGENT AUTHORIZATION.

2 Notwithstanding any other provision of this Act, if
3 the concurrent resolution approved by the House of Rep-
4 resentatives and the Senate on the budget for fiscal year
5 1996 is based on an assumption of a tax cut of less than
6 $350,000,000,000, an amount equal to $461,300,000
7 multiplied by the fraction whose numerator is
8 $350,000,000,000 minus the amount of the tax cut re-
9 flected in the concurrent resolution and whose denomina-
10 tor is $350,000,000,000 is authorized to be appropriated
11 for fiscal year 1996 for Industrial Technology Services of
12 the National Institute of Standards and Technology.

Is that correct, Ms. Lofgren?

Ms. LOFGREN. Thank you, Mr. Chairman.

Yes, I do intend to withdraw this motion. I believe it's moot at this point.

But I'd like to yield, and I will do that at this point, if I may then yield the balance of my time to Mr. Tanner, the ranking minority member on the subcommittee, for a brief comment.

Mr. TANNER. I appreciate the gentlelady.

And I just, I couldn't let this vote go by without trying to communicate our frustration on the minority side of this subcommittee with trying to get the external programs before the Full Committee.

As charitable as I can be, Mr. Chairman, I will say at the time in subcommittee markup, when these programs were divided into two bills, we said that we did not see the reason for that. We thought it was a fig leaf, a rather clumsy one at that, to kill these external programs.

And I think the Committee ought to be aware, with this final vote, you have in effect, without some assurance that we will have a chance to be involved with these programs again, and we can get none from the Chair, I think the members of this Committee ought to realize what they've done here tonight, and we on the minority side, on our subcommittee, feel very, very badly about it, and I had to say that.

Thank you.

The CHAIRMAN. Well, the Chair would simply say to the gentleman we had the external programs before us. That was the vote that we just had a minute ago.

The amendment was brought before us. That's what we just voted on, and we just voted not to accept—

Mr. TANNER. I understand. And we just killed the ATP and MEP programs. I just want people to know what they've done.

The CHAIRMAN. Well, and I would say to the gentleman that maybe given the nature of the vote, that it's a good thing that we have in reserve the opportunity to do something with the MEP program at some point in the future, although we may have to go back and revisit exactly how that will be done.

But I think the Committee has made it clear now to appropriators and other persons that we are not prepared to move forward with the ATP program.

Mr. BOEHLERT. Will the Chairman yield?

The CHAIRMAN. I would yield.

Mr. BOEHLERT. I would ask my colleague, the distinguished ranking minority member from Tennessee, not to write the obituary for the ATP program. There are some of us committed to its continued viability. I accepted the Chairman's word that this would be revisited.

The CHAIRMAN. I would say to the gentleman, it's going to be revisited here in a couple of minutes, because we're going to accept the McHale amendment on the MEP program, the McHale/Boehlert amendment, I should say.

Mr. BOEHLERT. Thank you sir.

The CHAIRMAN. But let me move next on the roster to Mrs. Morella.

Mrs. MORELLA. Thank you.

I think there's an amendment at the desk that I'd like to offer, Mr. Chairman.

The CHAIRMAN. The Chair should state that there are no more amendments on the roster. We've completed the roster. These are additional amendments that members wish to offer.

The Clerk shall distribute the Morella amendment at this point.

Mr. BAKER. Mr. Chairman?

The CHAIRMAN. Mr. Baker?

Mr. BAKER. While they're distributing this amendment, may I just make a comment that I find the ranking member, when he was Chairman, eminently fair, and I find, except when he reached into his box of proxies and began counting them, that was a little frustrating, and I find the current Chairman eminently fair.

So I'd like to suggest to the current Chairman that we allow the ranking member to close on this amendment, and presume that everything he says is gospel.

Mr. BROWN. Would the gentleman yield?

Mr. BAKER. I'd be happy to yield.

Mr. BROWN. I very much appreciate the gentleman's comments about my fairness, and that the current Chairman is likewise seeking to be eminently fair.

I now am able to share what I think was his sense of frustration, however, when he was in the minority, and it makes me somewhat as testy as he used to be once in a while.

[Laughter.]

Mr. BAKER. Well, I was sincere about my remarks on both Chairmen, that they are eminently fair, and I think I'm semi-sincere about asking that you be allowed to close on this important amendment, and that everything you say I know will be true.

The CHAIRMAN. Well, I thank the gentleman for his contribution.

I would say there have been moments when we've been trying to round members up to be here, that I wished I could reach into a box of proxies, as well.

So there are in fact some—although I do think that in the end, we are better off having members really participate, rather than doing it by proxy.

I recognize the gentlelady from Maryland for the purposes of offering her amendment.

[The amendment follows:]

AMENDMENT TO H.R. 1870

OFFERED BY MRS. MORELLA

Page 5, after line 9, insert the following new section:

1 **SEC. 6. STANDARDS CONFORMITY.**

2 (a) USE OF STANDARDS.—Section 2(b) of the Na-
3 tional Institute of Standards and Technology Act (15
4 U.S.C. 272(b)) is amended—

5 (1) by striking ", including comparing stand-
6 ards" and all that follows through "Federal Govern-
7 ment";

8 (2) by redesignating paragraphs (3) through
9 (11) as paragraphs (4) through (12), respectively;
10 and

11 (3) by inserting after paragraph (2) the follow-
12 ing new paragraph:

13 "(3) to compare standards used in scientific in-
14 vestigations, engineering, manufacturing, commerce,
15 industry, and educational institutions with the
16 standards adopted or recognized by the Federal Gov-
17 ernment and to coordinate the use by Federal agen-
18 cies of private sector standards, emphasizing where

1 possible the use of standards developed by private,
2 consensus organizations;".
3 (b) CONFORMITY ASSESSMENT ACTIVITIES.—Section
4 2(b) of the National Institute of Standards and Tech-
5 nology Act (15 U.S.C. 272(b)) is amended—
6 (1) by striking "and" at the end of paragraph
7 (10);
8 (2) by striking the period at the end of para-
9 graph (11) and inserting in lieu thereof "; and"; and
10 (3) by adding at the end the following new
11 paragraph:
12 "(12) to coordinate Federal, State, local, and
13 private sector standards conformity assessment ac-
14 tivities, with the goal of eliminating unnecessary du-
15 plication and complexity in the development and pro-
16 mulgation of conformity assessment requirements
17 and measures.".
18 (c) TRANSMITTAL OF PLAN TO CONGRESS.—The Na-
19 tional Institute of Standards and Technology shall, by
20 January 1, 1996, transmit to the Congress a plan for im-
21 plementing the amendments made by this section.

Mrs. MORELLA. Thanks, Mr. Chairman.

Everybody has the amendment, so I move that we delete the reading of the amendment.

The amendment relates to the responsibilities of the National Institute of Standards in the area of development and adoption throughout government of manufacturing standards, and the activities of government agencies in conducting assessment of product conformity to those standards.

I have a lengthy statement which I will not read but I would like to be put into the record, Mr. Chairman, about the amendment.

[The prepared statement of Mrs. Morella follows:]

STATEMENT REGARDING STANDARDS

AND CONFORMITY ASSESSMENT AMENDMENT

Mr. Chairman, I have an amendment to the bill that I wish to offer relating to responsibilities of the National Institute of Standards in the area of the development and adoption throughout government of manufacturing standards, and the activities of government agencies in conducting assessment of product conformity to those standards.

For the benefit of our new members, I would just relate some past history. In the 102nd Congress, this Committee instructed the National Research council to study the issues of the role and responsibilities of the U.S. government and industry in the development of product testing and certification standards, and conformity assessment activities, both domestically and internationally. Our primary focus was upon looking at the mechanisms by which standards are adopted and applied in government, and our concern was that those private sector, voluntary consensus standards organizations that have been working for decades to develop industry wide manufacturing criteria and conformity assessment measures, are relied upon wherever possible to provide the baseline for standards adopted within government. Quite frankly, the record in this regard has been mixed.

We now have in hand the results of the NRC study, a report titled "Standards, Conformity Assessment, and Trade". Reviewing the history of the development of standards for product testing and certification by private, industry based groups operating under principles of open participation, due process and consensual standards development, and contrasting the private sector experience with prior attempts by government agencies to mandate adherence to federally developed standards which have been, in many instances, inconsonant with private consensual standards, the report's authors make three key recommendations with regard to the functions that the National Institute of Standards and Technology could best serve in the effort to facilitate the use of private, consensual standards wherever possible:

1) First, the report recommends that Congress extend a statutory mandate to NIST to implement a government-wide policy of phasing out federally operated conformity assessment activities in favor of State, local, and private sector based certification processes;

2) Second, the report recommends that NIST develop a strategic plan to eliminate duplication in state and local criteria for accrediting testing laboratories and product certifiers, and take the lead in efforts to build a network of mutual recognition agreements regarding conformity assessment among federal, state and local authorities; and

3) Third, the report recommends that Congress grant NIST a clear statutory mandate to act as the lead U.S. agency for ensuring federal use of standards developed by private, consensus organizations to meet regulatory and procurement needs.

In the organic statute which defines the mission of the National Institute of Standards and Technology, the agency is delegated the task of developing and maintaining national standards of measurement, and comparing standards used in science and industry with those adopted or recognized by the federal government. Although NIST is instructed therein to "cooperate with other departments and agencies of the Federal Government, with industry...State and local governments .. and with private organizations in establishing standard(s),... (including) ... voluntary consensus standards", nevertheless, the agency has not been in the leadership among federal, state and local entities in the work of securing the adoption of private, consensual standards wherever possible.

My amendment seeks to move government and industry incremental steps closer toward the accomplishment of these goals by formally incorporating, into the organic statute which creates and defines the missions of the National Institute of Standards and Technology, a clear mandate to NIST to coordinate the use by Federal agencies of private sector standards and, wherever possible, emphasizing the use of standards developed by federal agency directive. Furthermore, the amendment directs NIST to take a forward role in coordinating among federal, state, local and private sector entities to eliminate unnecessary duplication and complexity in the development and implementation of conformity assessment criteria and certification requirements.

My staff has previously circulated to all members the text of the amendment, and a section by section explanation, and I will not go over that detail at this time. I understand that the amendment finds favor among our colleagues in the minority. I know our former Chairman Mr. Brown has done a great deal of work on these issues in the past and I know he is aware of how important these issues are to American industry, which is now fighting some tough battles in the international arena to win recognition for the principle that the development of standards, and conformity assessment activities, are properly left to the private sector and specifically to the standards setting organizations that have been working to achieve industry consensus on standards and product testing for so many years.

Mr. Chairman, this amendment is not only consistent with our Republican philosophy of reliance on the private sector to lead the way in the development of technology, it is also consonant with the goal that we all share of making government more responsive to the needs of its customers. In this case, the "customers" are industries which must strive to meet government procurement and safety specifications. I urge the adoption of the amendment as a first step in developing a more cooperative, and efficient , standards setting process not only within federal agencies, but also at the state and local level.

Mrs. MORELLA. But basically we now have the results of an NRC study, a report entitled "Standards Conformity Assessment In Trade."

And as you look at the study, the reports' authors make three key recommendations which tie into my amendment. These recommendations regard the functions of the National Institute of Standards and Technology, that they could best serve in the effort to facilitate the use of private consensual standards wherever possible.

The report recommends that Congress extend its statutory mandate to NIST to implement a Government-wide policy of phasing out Federally operated conformity assessment activities in favor of state, local, and private sector- based processes.

It also recommends that NIST develop a strategic plan to eliminate duplication in state and local criteria for accrediting testing laboratories and product certifiers and take the lead in efforts to build a network of mutual recognition agreements regarding conformity assessment among Federal, state and local authorities.

And it recommends that Congress grant NIST a clear statutory mandate to act as the lead U.S. agency for insuring Federal use of standards developed by private consensus organizations to meet regulatory and procurement needs.

So my amendment actually seeks to move government and industry incremental steps closer toward accomplishing those goals by formally incorporating into the organic statute, a statute which creates and defines the missions of NIST, a clear mandate to NIST to coordinate the use by Federal agencies of private sector standards wherever possible emphasizing the use of standards developed by the Federal agency directives.

And it also allows or directs NIST to take a forward role in coordinating Federal, state, local, private sector entities to eliminate unnecessary duplication and complexity in developing and implementing conformity assessment criteria certification requirements.

I think that is adequate to indicate that this amendment is consistent with the recommendations in that report in making NIST the lead agency.

The CHAIRMAN. Are there other members that seek to be heard on the amendment?

Ms. LOFGREN. Mr. Chairman?

The CHAIRMAN. The gentlewoman from California.

Ms. LOFGREN. Thank you, Mr. Chairman.

I was not aware of this amendment until just recently, but I have a question for Mrs. Morella.

Isn't this the subject of our hearing tomorrow morning at 9:30?

Mrs. MORELLA. It is the subject of it, the report, and frankly, Ms. Lofgren, that's a very good question because we had arranged this earlier, but because of trying to get these bills marked up in Full Committee, the bills came before that particular hearing.

But you'll find that this amendment is in conformity with the report which will be part of the discussion at our technology subcommittee tomorrow. You're right. It was a matter of timing.

Ms. LOFGREN. As I said earlier, I'm new here, but ordinarily I would assume the hearings would precede the bills.

And this may be an excellent amendment, I don't know, I'm not saying that it isn't. But it seems to me, if we're going to act on this tonight, why are we having the hearing tomorrow?

Mrs. MORELLA. Because there wasn't time to have it yesterday or today, and it's simply a matter of timing. I can understand what you're saying, but it is a report. The report is available.

The amendment is a good amendment. It is in concert with the report, with making NIST the lead agency, and I regret the fact that the timing is such that the hearing is going to follow the discussion of the amendment.

Ms. LOFGREN. Thank you.

Mrs. MORELLA. Thank you.

The CHAIRMAN. Are there additional people wishing to be recognized on this amendment?

If not, before we get to a vote, maybe we can clear this amendment.

The Chair does support the amendment and thinks it does follow the National Institute of Standards.

Those in favor of the amendment will say aye.

[Chorus of ayes.]

The CHAIRMAN. Those opposed will say no.

[No response.]

The CHAIRMAN. In the opinion of the Chair, the ayes have it. The ayes have it and the amendment is agreed to.

The Committee stands in recess.

Mr. BOEHLERT. Mr. Chairman, may I ask when you intend to come back? Why don't we get a little break. I'm a little bit hungry. I think many of us are. A half hour or so?

The CHAIRMAN. Well, why don't we break then. Why don't we break until 9:00 o'clock. That'll give the members a chance to vote, get something to eat.

Mr. BOEHLERT. Wonderful. The Chair is eminently fair.

The CHAIRMAN. No, 9:00 p.m. We'll break now and come back at 9:00 p.m.

[Recess.]

The CHAIRMAN. The Committee will come to order.

We counted up a quorum. Bring in the people. Seventeen members are in the room. A quorum is present.

Mr. OLVER. Mr. Chairman?

The CHAIRMAN. The gentleman from Massachusetts?

We have an amendment under consideration, I would say to the gentleman. Does the gentleman wish to debate the amendment under consideration?

Mr. OLVER. By what, Mr. Chairman, point of parliamentary inquiry.

By what mechanism do we have an amendment under consideration?

The CHAIRMAN. When we left for recess, the Morella amendment was before the Committee.

Mr. OLVER. I'm sorry, I stand corrected. I thought that that matter had been disposed of.

The CHAIRMAN. No, we have that amendment before——

[Pause.]

Mr. OLVER. My recollection, Mr. Chairman, was that it had been adopted. It had been adopted by a voice vote.

The CHAIRMAN. Does the Staff concur with that?

My mistake. My mistake.

The next amendment that we have—

Mr. OLVER. Mr. Chairman?

The CHAIRMAN. The gentleman from Massachusetts.

Mr. OLVER. Mr. Chairman, I have an amendment at the desk.

The CHAIRMAN. Well, we want to go in some order here, and I was going to take Mr. McHale next, because I've agreed to accept his amendment.

I was going to recognize him next for his amendment, and then we're going to come to you.

Mr. OLVER. Mr. Chairman, I believe you recognized me. I have an amendment at the desk.

You may have some desire here or some, you may accept his amendment at any time, but my amendment in fact, was at the desk first, and I have recognition.

The CHAIRMAN. Well, the power of recognition is the power of the Chair.

Mr. OLVER. And you recognized me, Mr. Chairman.

The CHAIRMAN. Well, if you have decided that you want to go ahead of Mr. McHale, go ahead, Mr. Olver.

Mr. OLVER. Mr. Chairman, I do that because in fact, well, it will become obvious I think why I do that.

Mr. Chairman, I have an amendment at the desk which has not been, which is being distributed, and I would ask that it be considered as read.

The CHAIRMAN. Without objection.

[The amendment follows:]

AMENDMENT TO H.R. 1870
OFFERED BY MR. OLVER

Page 2, line 11, strike "(1)".

Page 2, line 12, strike "$275,579,000" and insert in lieu thereof "$336,579,000".

Page 3, line 6, strike "and".

Page 3, after line 10, insert the following new subparagraph:

1 (L) $123,055,000 shall be for the Manu-
2 facturing Extension Partnerships program
3 under sections 25 and 26 of the National Insti-
4 tute of Standards and Technology Act (15
5 U.S.C. 278k and 278l).

Page 3, lines 11 and 12, strike paragraph (2).

Mr. OLVER. Mr. Chairman, my amendment gives us another opportunity to bring the major import of the 1871 bill into the legislation that we are dealing with.

My amendment would provide $123 million for the Manufacturing Extension Program, the Manufacturing Extension Partnership, which I think, and I think from the comments that have been made by people on both sides of the aisle, is an extremely valuable program.

It helps manufacturers become more competitive and it literally saves companies and jobs.

This is why republican governors have expressed support for it, why businesses across the country have written in support of it, and I think also why the Appropriations Committee has provided $81 million, the Appropriations Subcommittee on Commerce, State, Justice, for the MEP program.

I have here a book of letters from businesses. This happens to be a book of letters all from the State of Pennsylvania to members of the Pennsylvania Delegation, which have been cc'd to this Committee.

I have a second book here which has representative letters from another several hundred, 600 or 700, from various states around the country; Illinois, Indiana, Iowa, Massachusetts, Maryland, and so forth. There are about 20 states represented in this book with these hundreds, these being only representative letters.

When testimony before this Committee earlier on this issue came, there were hundreds of letters from my State of Massachusetts, and a book of equal size to the one there from Pennsylvania, expressing support for the Manufacturing Extension Partnership program.

The amendment that I have offered is I think already partially done. The Appropriations Subcommittee has provided $61 million more than the subcommittee cap for programs under this Committee's jurisdiction, and has provided $81 million of the $123 million that I would provide under this amendment.

The rest of the money is achieved by a shift of $62 million from the construction account towards the MEP. Now this shift from the construction account, it is my understanding at least, that this does not hurt the construction program because NIST already has $168 million in unobligated balances now in that very construction account, and that's more than enough to do the programs that have been proposed for this fiscal year.

The Manufacturing Extension Program has strong bipartisan support and this is an honest effort to provide some funding for the program and some authorization for the program.

In fact, it is exactly corresponding to the, or virtually exactly corresponding to the effort that we did on the Department of Energy bill when we changed the bill that was before us to increase the amount of the allocation for that bill to reflect the fact that the Appropriations Subcommittee was appropriating money for that so in fact we were following them, their movement, in order to be relevant in the appropriation process.

I would point out again, as I did before, that it is particularly ironic that our two largest competitors in this world, Germany and Japan, which together have an economy not quite as large as ours,

somewhat smaller than ours, each of them has very extensive programs in the form of manufacturing extension partnerships in very similar form, that provide a partnership among industry, government, and academia.

And it seems to me that it is most appropriate for us to authorize an amount here which the program, the Manufacturing Extension Partnership could use very effectively and still would be somewhat below what is already, what is now in the program as it operates at the moment.

So this is an amendment that deals only with the MEP, provides $123 million, and I would hope that the Committee would accept it.

The CHAIRMAN. The time of the gentleman has expired.

Are there other members that wish to be heard on the amendment?

[No response.]

The CHAIRMAN. If not, the Chair will conclude the debate on the amendment by indicating that while the amendment does add additional money to the core program, on one hand, on the other hand, it takes money away from the core program, and the net result is that this money, that this particular amendment diminishes the core program by $62 million.

The key program that at least some of us believe is the priority of NIST is in fact gutted to the tune of about $62 million by this amendment, so that money can be put out of the internal program into the external programs.

That would be I think a very unwise move at a time when we are attempting to make certain that NIST can do the kinds of standards work that allows us to be globally competitive.

So the Chair would recommend a no vote on this amendment.

Mr. OLVER. Would the gentleman yield for a question?

The CHAIRMAN. Of course.

Mr. OLVER. Thank you, Mr. Chairman.

Is it the Chairman's understanding that in fact there is not an excess of $168 million in that construction account from which my amendment does in fact take $62 million in this fiscal year?

And is it the Chair's understanding, I guess I would assume it's the Chair's understanding since he has indicated that this would gut, as I understand the language, the construction program that the—

The CHAIRMAN. The core program, I said to the gentleman. The core program, the operational program at NIST.

Mr. OLVER. Well that simply isn't true. There is, there is an excess in the construction account far beyond what it is that is indicated to be needed in this fiscal year.

And so I would challenge the idea that it does anything serious in harm to the construction program.

The CHAIRMAN. Well, the Chair stands by his statement that this is a gutting of the core program. The construction program of course has been building up money for a period of time in order to do some constructions of some new lab facilities and particularly to put some new technology in NIST to allow it to stay ahead of the curve.

If in fact what the gentleman is doing is spending money that has been accumulated over some years at NIST, in order to do those updates, badly needed technology upgrades, then he is doing even more damage than I really realized.

But it appears, from the way in which the amendment is worded, that the money comes directly out of the core program.

With that, the Chair would put the question.

Mrs. MORELLA. Mr. Chairman?

Mr. BROWN. Mr. Chairman?

The CHAIRMAN. The Chair will recognize the gentlewoman from Maryland.

Mrs. MORELLA. I just simply want to agree with you on that. That construction program is critically important for renovation and construction of the laboratories for the core program.

The CHAIRMAN. The Chair will put the question.

Those in favor of the amendment will say aye.

[Chorus of ayes.]

The CHAIRMAN. Those opposed will say no.

[Chorus of nays.]

The CHAIRMAN. In the opinion of the Chair, the noes have it.

Mr. OLVER. Division, please, Mr. Chairman.

The CHAIRMAN. The gentleman asked for a division.

Those in favor of the amendment will indicate so by raising their hands.

[Show of hands.]

The CHAIRMAN. The Clerk will count.

[Pause.]

The CHAIRMAN. Does the Clerk have a count?

Those opposed will raise their hands.

[Show of hands.]

The CHAIRMAN. The Clerk will report.

Ms. SCHWARTZ. Mr. Chairman, yes-10, no-19.

The CHAIRMAN. The amendment fails on a division vote.

The Chair will recognize the gentleman from Pennsylvania, Mr. McHale.

Mr. MCHALE. Thank you, Mr. Chairman.

Mr. Chairman, the amendment that I now offer, I offer on behalf of Mr. Boehlert and myself.

[The amendment follows:]

Amendment to H.R. 1870

Offered by Mr. McHale.

Page 5, after line 9, insert the following new section:

Sec. 6 FURTHER AUTHORIZATIONS.

Nothing in this Act shall preclude further authorization of appropriations for the Manufacturing Extension Partnerships program under sections 25 and 26 of the National Institute of Standards and Technology Act (15 USC 278k and 2871) for fiscal year 1996: Provided, That authorization allocations adopted by the Conference Committee on House Concurrent Resolution 67, and approved by Congress, allow for such further authorizations.

Mr. MCHALE. It was crafted following the language that was originally contained in the Davis Amendment, in turn incorporated into the Walker substitute to the Department of Energy Civilian Research and Development Act of 1995.

Mr. Chairman, basically what this is is a chance to express our belief that the MEP program is deserving of our support, while recognizing that the level of that support remains uncertain.

Mr. Chairman, in the underlying bill, H.R. 1870, we have preserved our commitment to the core programs of NIST, and I share that commitment. With the defeat of the Johnson amendment, perhaps an hour or two ago, regrettably we turned away from ATP and MEP. The amendment that I now offer draws the distinction between ATP and MEP, recognizing that whatever difficult fate ATP might face—and I find such a result unfortunate—MEP may well survive.

In order to be completely open with the Committee, let me point out that Mr. Boehlert and I, as well as others, have reason to believe that perhaps as much as $81 million has already been found potentially for funding of MEP. My hope is that by the time we emerge from the conference committee, we will see a figure that is perhaps close to the amount just offered recently by the gentleman, Mr. Olver—something in the range of $123 million, or as requested by MEP, $126 million.

I have such a program in my district. I can tell you, Mr. Chairman, it has worked superbly in bringing off-the-shelf technology to the manufacturing process, as was the case with the Davis amendment, previously incorporated into the Walker substitute on the Department of Energy bill.

With the adoption of the McHale-Boehlert amendment, we recognize the uncertainty of funds that may be available in the future. And by adopting this amendment, we keep the door open to the maximum extent possible consistent with fiscal responsibility. We hope to obtain such funds, and ultimately authorize them under the bill.

Thank you, Mr. Chairman.

The CHAIRMAN. I thank the gentleman.

The Chair is prepared to take the amendment. Does the gentleman from New York wish to be recognized?

Mr. BOEHLERT. Nothing need be added, Mr. Chairman. I wish to support the amendment.

The CHAIRMAN. Are there other members who wish to be recognized on the amendment?

[No response.]

The CHAIRMAN. If not, the Chair will put the question.

Those in favor of the amendment will say aye.

[Chorus of ayes.]

The CHAIRMAN. Those opposed will say no.

[No response.]

The CHAIRMAN. The amendment is agreed to.

Are there any other amendments? Mr. Roemer?

Mr. ROEMER. Mr. Chairman, I have an amendment at the desk.

The CHAIRMAN. The Clerk will distribute the amendment.

The gentleman is recognized to describe his amendment.

[The amendment follows:]

AMENDMENT TO H.R. 1870
OFFERED BY MR. ROEMER

Page 4, line 22, through page 5, line 4, amend paragraph (2) to read as follows:

1 (2) in section 17(c) (15 U.S.C. 3711a(c))—
2 (A) by amending paragraph (2) to read as
3 follows:
4 "(2) In addition to awards under paragraph (1), the
5 Secretary may make awards in categories with respect to
6 which pilot projects have been established before the date
7 of the enactment of the American Technology Advance-
8 ment Act of 1995."; and
9 (B) by striking "two" in paragraph (3)
10 and inserting in lieu thereof "4".

Mr. ROEMER. Thank you, Mr. Chairman.

Mr. Chairman, my amendment deals with the Malcolm Baldrige Award. This is truly an award that we can be proud of in this country. The spinoffs in terms of advice that the winners of the Baldrige Award give to help other business is truly something that I think provides rich dividends to other companies.

Four years ago, we included some language in that expanded the Baldrige Awards to some pilot programs that included education and health care. In this bill, however, you remove the authority that the Secretary of Commerce currently has to add new categories to the Baldrige Award, even though this committee print does continue funding for the two pilot programs.

My amendment would continue to give the Secretary the ability to not only support the pilot programs, but to add education and health programs without seeking further authorization.

The CHAIRMAN. I thank the gentleman.

The gentlewoman from Maryland.

Mrs. MORELLA. Thank you, Mr. Chairman.

I respect the amendment offered by Mr. Roemer, but unfortunately I must oppose it. During the subcommittee consideration, I offered an amendment which you mentioned which was adopted relating to his amendment. It would provide the $3.4 million authorization for the Baldrige Quality Awards program for the 1996 fiscal year. And as a result, the functions of the Baldrige Award program would be transferred over to the core SGRS account.

The $3.4 million to be authorized will fully fund the components of the program, including the test pilot programs for health care and education. And so these pilot programs which the gentleman supports can proceed on course.

However, while I'm a strong believer in the total quality management and the award program, I believe the Congressional authority should be required before we expand the categories and the goals of the program. Last year, Congressional authority was requested to officially expand the categories to health care and education, and we had a very healthy debate, and I think it was a necessary one. And in addition, I understand from NIST that expansion of the awards at this time is not feasible, and still requires further study.

The Baldrige Awards, as Mr. Boehlert has mentioned, are perhaps at the height of their prestige. Being named a Baldrige awardee has become a significant business achievement, and I think we should move prudently before we begin to consider expanding the awards. There are questions of whether or not there would be a dilution of the award if we remove the limitations and categories on the number of awardees.

But in addition, the costs of administering the Baldrige program, if it continues to expand, should be considered. Originally, it was designed to be financially self-sufficient, funded through application fees and corporate contributions. But if it is now going to be funded under the core SGRS account, then I have a concern that the laboratories might be overlooked at the expense of funding the ever- increasing Baldrige Awards.

So if NIST can come back to Congress, provide a plan for self-sufficient expansion into the health care and education categories, then I could suggest that we support that expansion. But I think

that we do need Congressional authority to do so. I think it should be essential.

But I look forward to working on this issue with Mr. Roemer.

Mr. ROEMER. Would the gentlelady yield?

Mrs. MORELLA. Indeed yes.

Mr. ROEMER. I would just say that I look forward to working with her on this issue, too. I know she's very supportive.

I have a letter in my hand from Mr. Sanford McDonnell, who as you know helped create the Baldrige Awards, and is the chairman emeritus of the McDonnell-Douglas Corporation. He says in a letter that he is very supportive of these pilot programs, and goes on to say how instrumental the Baldrige has been to business, and how it can provide the same kind of inspiration to education and health care companies. And he supports NIST's willingness to take cuts from other programs to support these pilot programs.

I would look forward to working with the gentlelady in report language if she would be willing to work on that between now and the floor. And if she would do that—

Mrs. MORELLA. I would indeed be happy to do that.

Mr. ROEMER. I will be honored to work with you on that, and I would ask unanimous consent to withdraw the amendment.

The CHAIRMAN. Without objection.

Are there any other amendments?

[No response.]

The CHAIRMAN. Hearing none, the question is on the bill H.R. 1870, the American Technology Advancement Act of 1995. All those in favor of the legislation will say aye.

[Chorus of ayes.]

The CHAIRMAN. Those opposed will say no.

[Chorus of nays.]

The CHAIRMAN. In the opinion of the Chair, the ayes have it.

The gentlelady from Maryland.

Mrs. MORELLA. Mr. Chairman, I move that the committee report the bill H.R. 1870 as amended. Furthermore, I move to instruct the staff to prepare the legislative report, including supplemental minority or additional views, to make technical and conforming amendments, and that the Chairman take all necessary steps to bring the bill before the House for consideration.

The CHAIRMAN. Will the gentlelady include in her motion three days for all members to be able to provide supplemental views?

Mrs. MORELLA. Indeed. All members shall have three days to provide supplemental views.

The CHAIRMAN. Having heard the motion, the Chair will put the question.

Those in favor of the motion will say aye.

[Chorus of ayes.]

The CHAIRMAN. Those opposed will say no.

[Chorus of nays.]

The CHAIRMAN. In the opinion of the Chair, the ayes have it. The Committee reports the bill.

Without objection, the motion to reconsider is laid upon the table. Mr. Ehlers.

Mr. EHLERS. Thank you, Mr. Chairman.

With great pleasure, I offer the following motion, which I hope will not be debated. I move pursuant to clause 1 of Rule 20 of the rules of the House of Representatives that the Committee authorize the Chairman to offer such motions as may be necessary in the House to go to conference with the Senate on the bill H.R. 1870, or a similar Senate bill.

The CHAIRMAN. The Committee has heard the motion. Those in favor will say aye.

[Chorus of ayes.]

The CHAIRMAN. Those opposed will say no.

[No response.]

The CHAIRMAN. The motion carries.

Mrs. MORELLA. Mr. Chairman?

The CHAIRMAN. Mrs. Morella.

Mrs. MORELLA. Mr. Chairman, I move that the Committee adopt, as part of the legislative report on H.R. 1870, the summary chart which the members have before them.

The CHAIRMAN. The Committee has heard the motion. Those in favor will say aye.

[Chorus of ayes.]

The CHAIRMAN. Those opposed will say no.

[No response.]

The CHAIRMAN. The ayes have it. The motion is approved.

This concludes our markup on the measure H.R. 1870, the American Technology Advancement Act of 1995. Who seeks recognition?

Ms. JACKSON LEE. I do, Mr. Chairman.

Mr. Chairman, I just want to note that I was unavoidably detained during the Lofgren amendment on the NOAA bill dealing with the authorization on climate and air quality. If I had been present, Mr. Chairman, I would have voted "aye." I would appreciate it if the record would so note at the place of the roll call vote.

The CHAIRMAN. The gentlelady's vote will be noted.

Mr. Olver.

Mr. OLVER. Thank you, Mr. Chairman.

Could you tell me as a point of parliamentary inquiry, Mr. Chairman, under the rules, is there a procedure by which the members may bring H.R. 1871 before the Committee, this bill which covers the external programs under NIST and which had been reported favorably by the subcommittee but which has not been placed on the schedule?

The CHAIRMAN. Under the rules of the House, or under the rules of this Committee, any measures brought before the Committee have to be noticed to the members in advance. The meeting chart was, in fact—provided a notice of the legislation that was to be considered. That particular bill was not provided in the notice, and so therefore is not eligible for consideration by the Committee at this time.

I would again note to the gentleman that the measure the gentleman refers to was in fact considered by this Committee as an amendment in the case of the amendment offered by Mrs. Johnson. So we have had a chance to deliberate that measure almost in its exact form. And the Committee did turn down that amendment when it was deliberated.

Mr. OLVER. Mr. Chairman, a point of further parliamentary inquiry.

Is there under the rules a procedure by which the members can bring H.R. 1871 up for consideration by the Committee even if the Chairman has not put it on the schedule, and in its own right, as opposed to in the form that it was as you have stated dealt with?

The CHAIRMAN. I will read Rule 17 to the gentleman so that we can clear this matter up.

"It shall not be in order for the Committee to consider any new or original measure or matter unless written notice of the date, place and subject matter of consideration to the extent practicable a written copy of the measure or matter to be considered has been available in the office of each member of the Committee for at least 48 hours in advance of consideration, excluding saturdayS, Sundays and legal holidays."

The Chair is attempting to operate by the rules, and operating under the rules. The Chair has explained to the gentleman that under the rules, it is not possible to bring that measure before the Committee, and the Chair would not seek to find extralegal ways to try to carry out the wishes of the gentleman.

Mr. OLVER. Mr. Chairman, point of further parliamentary inquiry.

Is it not true that there is a provision in the rules of the Committee that providing for a majority of the members to ask that that be brought forward, under which circumstances the Chairman must put it on the agenda within a seven-day period?

The CHAIRMAN. Well, by order of the vote of two-thirds of the members present, providing a majority of the Committee is present, that would be possible. But it would not be possible to take it up today, as the gentleman suggests.

Mr. OLVER. I was not asking about taking it up today, Mr. Chairman. I'm just trying to find out what is the method by which we can get 1871 considered in its own right as a bill which had been passed out by the majority of members of the Committee favorably. I think I have identified that if a majority of the members of the Committee wished to have it taken up—

The CHAIRMAN. A majority being present, two-thirds have to vote. A majority being present, two-thirds of the members have to vote.

Mr. OLVER. To take the matter up at this particular time, I think that's true, without notice. But by normal notice, I think there is a provision that allows for the legislation to be brought up after a seven-day notice, within a seven-day period, if there is a written request by a majority of the members.

Mr. CURT WELDON. Point of information, Mr. Chairman.

Don't we have additional business to complete? The members would like to finish the scheduled markup of the bills the Chairman advertised. Let's conclude that first. The gentleman can ask all the inquiries he wants of the staff.

The CHAIRMAN. The Chair is hopeful that we can move on. But the gentleman is propounding legitimate parliamentary inquiries. The Chair is attempting to be patient and explain to the gentleman the options that are before him. The gentleman seems to know

what his options are, and can in fact pursue his rights under the rules.

Mr. ROHRABACHER. Point of information.

Couldn't questions like this, Mr. Chairman, be brought up actually in private and be discussed, rather than having to take up the time for the whole Committee?

The CHAIRMAN. The gentleman is within his rights. The Chair is going to protect the rights of all members. But the Chair does wish to proceed with the business that is on the calendar.

[Whereupon the hearing in the above-entitled matter was adjourned.]

[Additional material follows:]

COMMITTEE ON SCIENCE - 104TH CONGRESS ••••••••••••••••••••••••• ROLL CALL

SUBJECT: 1870: Tanner Amendment / Sub. (2)

Rm.	Phone	Name	Present	Absent	Yes	No	Not Voting
2349	52411	Mr. Walker, R-PA				1	
2352	55101	Mr. Sensenbrenner, R-WI				2	–
2246	55685	Mr. Boehlert, R-NY				3	
2159	55515	Mr. Fowell, R-IL				4	
106	55541	Mrs. Morella, R-MD				5	
2452	52011	Mr. Curt Weldon, R-PA					—
2338	55415	Mr. Rohrabacher, R-CA				6	
2404	54316	Mr. Schiff, R-NM				7	
2264	52002	Mr. Barton, R-TX					—
1034	51986	Mr. Calvert, R-CA				8	
1724	51880	Mr. Baker, R-CA				9	
322	52721	Mr. Bartlett, R-MD				10	
1717	55851	Mr. Ehlers, R-MI				11	
423	55271	Mr. Wamp, R-TN				12	
216	55871	Mr. Dave Weldon, R-FL				13	
1429	55501	Mr. Graham, R-SC				14	
115	52635	Mr. Salmon, R-AZ				15	
415	51492	Mr. Davis, R-VA				16	
417	54565	Mr. Stockman, R-TX				17	
425	55472	Mr. Gutknecht, R-MN				18	
1216	55601	Mrs. Seastrand, R-CA				19	
1319	54216	Mr. Tiahrt, R-KS				20	
410	52211	Mr. Largent, R-OK					—
114	54831	Mr. Hilleary, R-TN				21	—
1114	52311	Mrs. Cubin, R-WY					—
506	55792	Mr. Foley, R-FL				22	
509	51976	Mrs. Myrick, R-NC				23	
2300	54161	Mr. Brown, D-CA			1		
2236	54673	Mr. Hall, D-TX			2		
2446	55361	Mr. Traficant, D-OH					—
2432	52031	Mr. Hayes, D-LA					—
1127	54714	Mr. Tanner, D-TN			3		
2448	55071	Mr. Gonzalez, D-TX				24	
407	55915	Mr. Roemer, D-IN			4		
236	54801	Mr. Cramer, D-AL			5		
1410	58171	Mr. Barcia, D-MI			6		
217	56411	Mr. McHale, D-PA			7		
325	58820	Ms. Harman, D-CA					—
1123	58885	Ms. Johnson, D-TX			8		—
1415	52551	Mr. Minge, D-MN				25	
1027	55535	Mr. Olver, D-MA			9		
1039	51313	Mr. Hastings, D-FL			9		—
1116	58261	Ms. Rivers, D-MI			10		
1232	54535	Ms. McCarthy, D-MO			11		
1032	55401	Mr. Ward, D-KY			12		
118	55072	Ms. Lofgren, D-CA			13		
126	54865	Mr. Doggett, D-TX					—
1218	52135	Mr. Doyle, D-PA			14		
1520	53816	Ms. Jackson Lee, D-TX			15		
1419	52271	Mr. Luther, D-MN				26	
		TOTAL			15	26	

Attest: Patricia Schwartz (Clerk)

COMMITTEE ON SCIENCE - 104TH CONGRESS ********** ROLL CALL #3

SUBJECT: 1870: amend. Ms. Johnson

Rm.	Phone	Name	Present	Absent	Yes	No	Not Voting
2369	52411	Mr. Walker, R-PA				1	
2352	55101	Mr. Sensenbrenner, R-WI				2	
2246	55405	Mr. Boehlert, R-NY				3	
2159	55515	Mr. Hastert, R-IL				4	
104	55541	Mrs. Morella, R-MD				5	
2452	52011	Mr. Curt Weldon, R-PA				6	
2338	52415	Mr. Rohrabacher, R-CA				7	
2404	54316	Mr. Schiff, R-NM				8	
2264	52408	Mr. Barton, R-TX					—
1034	51986	Mr. Calvert, R-CA				9	
1724	51880	Mr. Baker, R-CA				10	
322	52721	Mr. Bartlett, R-MD				11	
1717	55851	Mr. Hilleary, R-AL				12	
425	55271	Mr. Wamp, R-TN				13	
216	55671	Mr. Dave Weldon, R-FL				14	
1429	55501	Mr. Graham, R-SC				15	
115	52635	Mr. Salmon, R-AZ				16	
415	51492	Mr. Davis, R-VA				17	
417	54508	Mr. Smithson, R-TX					—
425	55472	Mr. Gutknecht, R-MN				18	
1216	55401	Mrs. Bonilla, R-CA				19	
1519	54216	Mr. Tiahrt, R-KS				20	
410	52211	Mr. Largent, R-OK					—
114	54651	Mr. Hilleary, R-TN				21	
1114	52511	Mrs. Cubin, R-WY				22	
506	55792	Mr. Foley, R-FL				23	
509	51976	Mrs. Myrick, R-NC				24	
2300	54161	Mr. Brown, D-CA			1		
2236	56875	Mr. Hall, D-TX			2		
2446	55561	Mr. Traficant, D-OH					—
2432	55651	Mr. Hayes, D-LA					—
1227	54714	Mr. Tanner, D-TN			3		
2448	55071	Mr. Green, D-TX			4		
407	55915	Mr. Bonior, D-MI			5		
236	54681	Mr. Cramer, D-AL			(X)		—
1410	56171	Mr. Stupak, D-MI			6		
217	56411	Mr. McHale, D-PA			7		
325	56220	Ms. Harman, D-CA					—
1123	56065	Ms. Johnson, D-TX			8		
1415	52551	Mr. Minge, D-MN			9		
1027	55535	Mr. Olver, D-MA			10		
1059	51313	Mr. Hastings, D-FL			11		
1116	56261	Ms. Rivers, D-MI			12		
1232	54535	Ms. McCarthy, D-MO			13		
1032	55401	Mr. Ward, D-KY			14		
118	55072	Ms. Lofgren, D-CA			15		
126	54945	Mr. Doggett, D-TX					—
1218	52135	Mr. Doyle, D-PA			(X)		
1520	55816	Ms. Jackson Lee, D-TX			16		
1419	52271	Mr. Luther, D-MN			17		
		TOTAL			17	24	

Attest: Patricia Schwartz (Clerk)

COMMITTEE ON SCIENCE

FULL COMMITTEE MARKUP: JUNE 28, 1995

AMENDMENT ROSTER

H.R. 1870, the American Technology Advancement Act of 1995

--Motion to adopt the bill, as amended: Adopted by a voice vote
--Motion to report the bill, as amended: Adopted by a voice vote
--Motion to adopt the summary charts: Adopted by a voice vote

No.	Sponsor	Description	Results
1.	Mr. Walker	En bloc amendment	Adopted by voice vote
2.	Mr. Tanner	Amendment in the Nature of a Substitute	Defeated by a roll call vote: Y-15; N-26;
3.	Ms. Johnson	En bloc amendment creating Title I--General Authorizations & Title II--Industrial Technology Services	Defeated by a roll call vote: Y-19; N-24;
4.	Ms. Lofgren	Amendment creating a new Section 6--Contingent Authorization	Withdrawn
5.	Mrs. Morella	Creates a new Sec. 6--Standards Conformity	Adopted by voice vote
6.	Mr. Olver	En bloc amendment	Defeated by a Division vote: Y-10; N-19;
7.	Mr. McHale	Creates a new Sec. 6--Further Authorizations	Adopted by voice vote
8.	Mr. Roemer	Clarifying amendment relating to the Malcolm Baldridge Award	Withdrawn

(Short)

Statement for the Record by the Honorable George E. Brown, Jr.

Current Authorization Practices of the Various Committees

Our survey of the Democratic staffs of the authorizing Committees of the House of Representatives shows that the Committee on Science's new authorization procedures are not part of a House-wide effort. Our Committee is the only one to have made major changes in its authorization procedures from last year. Our Committee also appears to be almost unique in its degree of deference to the Budget Committee's report language. The Committee by Committee results of our survey follow.

Agriculture. The authorization process for the Committee on Agriculture follows its practice from past years; this Committee has not implemented new procedures similar to those being used in the Committee on Science. Last Wednesday, the Chairman of the Committee on Agriculture announced a task force of eight Republicans and six Democrats to work out the allocation of resources among agricultural programs. This process reflects the fact that there is often more loyalty to specific crops than to party on this committee. Agriculture is not rushing to report a farm bill ahead of appropriations; instead, the Committee is likely to report a series of authorization bills later in the year. Budget allocations have not been made by subcommittee. The Committee is also likely to continue its tradition of ignoring Budget Committee report language when it is inconsistent with Committee interests.

Banking and Financial Services. The Banking Committee is not pushing the authorization process. No authorization markups are scheduled, and subcommittee budget caps have not been assigned to date. Although housing programs are operating without an authorization, there will be no housing bill until later this summer. While the Banking Committee's actions will be budget-driven, the Committee expects to use the reconciliation process rather than a new authorization process to come into agreement with the budget resolution. Leadership initiatives will be followed by the Banking Committee. The Committee, through a Member who serves on both committees, participated in writing the Budget Committee report; therefore, the Committee's actions are likely to track the Budget Committee report fairly closely.

Commerce. Only a couple of authorization bills have been scheduled so far this year: the Ryan White reauthorization and FCC Reauthorization. The Commerce Committee is not worrying about Budget Committee instructions, and it is not trying to get authorization bills out in front of appropriations. No Subcommittee caps have been set. In the case of the FCC, the Committee will be marking up last year's bill although the Budget Committee favors abolishing the agency.

Economic and Educational Opportunities. This committee is facing pressures to cut back 20 to 30 percent on programs within its jurisdiction, but the pressure for the cuts does not seem to be

emanating from the Budget Committee. It did not wait for the Budget Committee to act to consider job training and welfare reform authorizations, and it does not appear to be trying to get additional authorization bills out before the appropriations bills go to the floor. The welfare reform legislation considered during the Contract with America contained authorizations as did the job training consolidation legislation which was reported from the committee a couple weeks ago. It is too early in the Committee's markup process to know how budget report language will be used.

Government Reform and Oversight. This Committee is not moving any authorization bills. The Office of Personnel Management is the only major agency under the Committee's purview, and the Committee generally does not provide annual authorizations for it.

Intelligence. This Committee's Chairman did not go through a process of allocating budgets to subcommittees and holding them to it. There were rumors early in the authorization process that the Committee would be expected to adopt certain leadership priorities, but this did not materialize. The final draft of the bill did not reflect the rumors. The Committee also did not face instructions in the budget report.

International Relations. This Committee authorizes both the State Department and U.S. Aid in one bill. Markup this year was held at the full committee level, and the State Department authorization levels were worked out cordially between the Full Committee and Subcommittee Chairmen. The Committee will follow its tradition and stay within the Budget Committee's number for international relations budget function. It will set the priorities within the budget totals and does not have specific Budget Committee instructions to follow. The Committee expects the House-Senate compromise on the budget to be lower than the House-passed number and will make adjustments accordingly.

Judiciary. There have been very few authorization bills considered by the Judiciary Committee this year, and the Committee is currently working on more pressing business. The Department of Justice has not been authorized for a long time. An overall authorization for the FBI has yet to be considered this year, though selected increases in FBI authorizations, to be funded from the Crime Trust Fund, were reported by the Committee earlier this year. There is no committee policy on overall or subcommittee caps on authorizations or adherence to the Budget Committee's report language.

National Security. There is a long-standing tradition on this Committee to move an authorization bill in advance of the Appropriations bill and to come in at the same numbers as the appropriators. The National Security Committee's authorization bill is exactly at House Budget Resolution levels for budget authority and $550 million below the budget allocation on

outlays. The Committee Chairman divided the Budget Committee's total mark among the subcommittees and passed on a half dozen leadership initiatives to follow. The budget committee report had very few instructions for them. The Committee's House budget allocation was up $9.5 billion, but the House-Senate compromise will be considerably lower. The Committee's authorization bill will be adjusted to match the revised number.

Resources. There is no obvious relationship between the work of the Budget Committee and that of the Committee on Resources. The six-year Bureau of Land Management Authorization, the only authorization bill to be considered this year, was driven by the Committee's desire to have the program authorized rather than by an action of the Budget Committee. Other authorizations, such as the Alaska National Wildlife Refuge bill, are not moving; in some instances hearings have not even been held. Resources Subcommittees have not been given been given budget-based caps for their programs.

Transportation and Infrastructure. There have been no budget allocations to Subcommittee Chairman and no attempt to move authorization bills in advance of appropriations. Even though the Congress must pass legislation by the end of September if $6.5 billion for the National Highway System is to be released, the Subcommittee is not trying to report legislation in advance of the Committee on Appropriations and has not scheduled a meeting on the subject. The Committee also is not likely to follow the Budget Committee report language in areas like new transit starts and cost-sharing levels for transit and highway projects.

Veterans Affairs. This committee does not report an overall annual authorization bill. The Committee has various expiring authorities that will be taken up in due course. The Committee chairman has not made allocations to subcommittees based on the budget resolution and does not appear to be trying to report authorizations ahead of the Committee on Appropriations.

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