

NATIONAL INSTITUTE OF STANDARDS AND TECHNOLOGY  
AUTHORIZATION ACT OF 1997

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APRIL 21, 1997.—Committed to the Committee of the Whole House on the State of  
the Union and ordered to be printed

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

R E P O R T

together with

ADDITIONAL VIEWS

[To accompany H.R. 1274]

[Including cost estimate of the Congressional Budget Office]

The Committee on Science, to whom was referred the bill (H.R. 1274) to authorize appropriations for the National Institute of Standards and Technology for fiscal years 1998 and 1999, and for other purposes, having considered the same, report favorably thereon with an amendment and recommend 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 “National Institute of Standards and Technology Authorization Act of 1997”.

### SEC. 2. AUTHORIZATION OF APPROPRIATIONS FOR SCIENTIFIC AND TECHNICAL RESEARCH AND SERVICES.

(a) LABORATORY ACTIVITIES.—There are authorized to be appropriated to the Secretary of Commerce for the Scientific and Technical Research and Services laboratory activities of the National Institute of Standards and Technology—

- (1) \$278,563,000 for fiscal year 1998, of which—
  - (A) \$38,104,000 shall be for Electronics and Electrical Engineering;
  - (B) \$18,925,000 shall be for Manufacturing Engineering;
  - (C) \$31,791,000 shall be for Chemical Science and Technology;
  - (D) \$30,372,000 shall be for Physics;
  - (E) \$50,914,000 shall be for Material Science and Engineering;
  - (F) \$13,404,000 shall be for Building and Fire Research;
  - (G) \$47,073,000 shall be for Computer Science and Applied Mathematics;
  - (H) \$19,376,000 shall be for Technical Assistance; and
  - (I) \$28,604,000 shall be for Research Support; and
- (2) \$286,919,890 for fiscal year 1999, of which—
  - (A) \$39,247,120 shall be for Electronics and Electrical Engineering;
  - (B) \$19,492,750 shall be for Manufacturing Engineering;
  - (C) \$32,744,730 shall be for Chemical Science and Technology;
  - (D) \$31,283,160 shall be for Physics;
  - (E) \$52,441,420 shall be for Material Science and Engineering;
  - (F) \$13,806,120 shall be for Building and Fire Research;
  - (G) \$48,485,190 shall be for Computer Science and Applied Mathematics;
  - (H) \$19,957,280 shall be for Technical Assistance; and
  - (I) \$29,462,120 shall be for Research Support.

(b) MALCOLM BALDRIGE NATIONAL QUALITY PROGRAM.—There are authorized to be appropriated to the Secretary of Commerce for the Malcolm Baldrige National Quality Program under section 17 of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3711a)—

- (1) \$4,134,500 for fiscal year 1998; and
- (2) \$5,289,000 for fiscal year 1999.

(c) CONSTRUCTION AND MAINTENANCE.—(1) There are authorized to be appropriated to the Secretary of Commerce for construction and maintenance of facilities of the National Institute of Standards and Technology—

- (A) \$16,692,000 for fiscal year 1998; and
- (B) \$67,000,000 for fiscal year 1999.

(2) None of the funds authorized by paragraph (1)(B) for construction of facilities may be obligated unless the Secretary of Commerce has certified to the Committee on Science of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate that the obligation of funds is consistent with a plan for meeting the facilities needs of the National Institute of Standards and Technology that the Secretary has transmitted to those committees.

### SEC. 3. AUTHORIZATION OF APPROPRIATIONS FOR THE OFFICE OF THE UNDER SECRETARY FOR TECHNOLOGY.

There are authorized to be appropriated to the Secretary of Commerce for the activities of the Under Secretary for Technology and the Office of Technology Policy—

- (1) \$7,000,000 for fiscal year 1998; and
- (2) \$7,205,000 for fiscal year 1999.

**SEC. 4. AUTHORIZATION OF APPROPRIATIONS FOR INDUSTRIAL TECHNOLOGY SERVICES.**

There are authorized to be appropriated to the Secretary of Commerce for the Industrial Technology Services activities of the National Institute of Standards and Technology—

- (1) \$302,900,000 for fiscal year 1998, of which—
  - (A) \$185,100,000 shall be for the Advanced Technology Program under section 28 of the National Institute of Standards and Technology Act (15 U.S.C. 278n); and
  - (B) \$117,800,000 shall be 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); and
- (2) \$261,300,000 for fiscal year 1999, of which—
  - (A) \$150,000,000 shall be for the Advanced Technology Program under section 28 of the National Institute of Standards and Technology Act (15 U.S.C. 278n); and
  - (B) \$111,300,000 shall be for the Manufacturing Extension Partnerships program under sections 5 and 26 of the National Institute of Standards and Technology Act (15 U.S.C. 278k and 278l).

**SEC. 5. NATIONAL INSTITUTE OF STANDARDS AND TECHNOLOGY ACT AMENDMENTS.**

(a) AMENDMENTS.—Section 28 of the National Institute of Standards and Technology Act (15 U.S.C. 278n) is amended—

- (1) by striking “or contracts” in subsection (b)(1)(B), and inserting in lieu thereof “contracts, and, subject to the last sentence of this subsection, other transactions”;
- (2) by inserting “and if the non-Federal participants in the joint venture agree to pay at least 60 percent of the total costs of the joint venture during the Federal participation period under this section, which shall not exceed 5 years,” in subsection (b)(1)(B) after “participation to be appropriate.”;
- (3) by striking “(ii) provision of a minority share of the cost of such joint ventures for up to 5 years, and (iii)” in subsection (b)(1)(B), and inserting in lieu thereof “and (ii)”;
- (4) by striking “and cooperative agreements” in subsection (b)(2), and inserting in lieu thereof “, cooperative agreements, and, subject to the last sentence of this subsection, other transactions”;
- (5) by striking “, provided that emphasis is” in subsection (b)(2) and inserting in lieu thereof “on the condition that grant recipients (other than small businesses within the meaning of the Small Business Act) provide at least 60 percent of the costs of the project, with emphasis”;
- (6) by adding after subsection (b)(4) the following:
 

“The authority under paragraph (1)(B) and paragraph (2) to enter into other transactions shall apply only if the Secretary, acting through the Director, determines that standard contracts, grants, or cooperative agreements are not feasible or appropriate, and only when other transaction instruments incorporate terms and conditions that reflect the use of generally accepted commercial accounting and auditing practices.”;
- (7) in subsection (d)(1), by inserting “and be of a nature and scope that would not be pursued in a timely manner without Federal assistance” after “technical merit”; and
- (8) by adding at the end the following new subsections:
  - “(k) Notwithstanding subsection (b)(1)(B) and subsection (d)(3), the Director may grant extensions beyond the deadlines established under those provisions for joint venture and single applicant awardees to expend Federal funds to complete their projects, if such extension may be granted with no additional cost to the Federal Government and it is in the Federal Government’s interest to do so.
  - “(l) The Secretary, acting through the Director, may vest title to tangible personal property in any recipient of financial assistance under this section if—
    - “(1) the property is purchased with funds provided under this section; and
    - “(2) the Secretary, acting through the Director, determines that the vesting of such property furthers the objectives of the Institute.
 Vesting under this subsection shall be subject to such limitations as are prescribed by the Secretary, acting through the Director, and shall be made without further obligation to the United States Government.”.

(b) ADDITIONAL AMENDMENT.—(1) Section 28 of the National Institute of Standards and Technology Act (15 U.S.C. 278n) is further amended by striking the period at the end of the first sentence of subsection (d)(11)(A) and inserting in lieu thereof the following: “or any other participant in a joint venture receiving financial assist-

ance under this section, as agreed by the parties, notwithstanding the requirements of section 202(a) and (b) of title 35, United States Code.”

(2) The amendment made by this subsection shall be effective only with respect to assistance for which solicitations for proposals are made after the date of the enactment of this Act.

**SEC. 6. MANUFACTURING EXTENSION PARTNERSHIP PROGRAM CENTER EXTENSION.**

Section 25(c)(5) of the National Institute of Standards and Technology Act (15 U.S.C. 278k(c)(5)) is amended by striking “, which are designed” and all that follows through “operation of a Center.” and inserting in lieu thereof “. After the sixth year, a Center may receive additional financial support under this section if it has received a positive evaluation through an independent review, under procedures established by the Institute. Such an independent review shall be required at least every two years after the sixth year of operation. Funding received for a fiscal year under this section after the sixth year of operation shall not exceed the proportion of the capital and annual operating and maintenance costs of the Center received by the Center during its sixth year of operation.”.

**SEC. 7. MALCOLM BALDRIGE QUALITY AWARD.**

Section 17(c)(3) of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3711a(c)(3)) is amended by inserting “, unless the Secretary determines that a third award is merited and can be given at no additional cost to the Federal Government” after “in any year”.

**SEC. 8. NEXT GENERATION INTERNET.**

None of the funds authorized by this Act, or any other Act enacted before the date of the enactment of this Act, may be used for the Next Generation Internet. Notwithstanding the previous sentence, funds may be used for the continuation of programs and activities that were funded and carried out during fiscal year 1997.

**SEC. 9. LIMITATIONS.**

(a) **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, except that this subsection 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.

(b) **LIMITATION ON APPROPRIATIONS.**—No sums are authorized to be appropriated to the Director of the National Institute of Standards and Technology for fiscal years 1998 and 1999 for the activities for which sums are authorized by this Act, unless such sums are specifically authorized to be appropriated by this Act.

(c) **ELIGIBILITY FOR AWARDS.**—

(1) **IN GENERAL.**—The Director of the National Institute of Standards and Technology shall exclude from consideration for grant agreements made by the Institute after fiscal year 1997 any person who received funds, other than those described in paragraph (2), appropriated for a fiscal year after fiscal year 1997, under a grant agreement 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 subsection shall be effective for a period of 5 years after the person receives such Federal funds.

(2) **EXCEPTION.**—Paragraph (1) shall not apply to the receipt of Federal funds by a person due to the membership of that person in a class specified by law for which assistance is awarded to members of the class according to a formula provided by law.

(3) **DEFINITION.**—For purposes of this subsection, the term “grant agreement” means a legal instrument whose principal purpose is to transfer a thing of value to the recipient to carry out a public purpose of support or stimulation authorized by a law of the United States, and does not include the acquisition (by purchase, lease, or barter) of property or services for the direct benefit or use of the United States Government. Such term does not include a cooperative agreement (as such term is used in section 6305 of title 31, United States Code) or a cooperative research and development agreement (as such term is defined in section 12(d)(1) of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3710a(d)(1))).

**SEC. 10. NOTICE.**

(a) **NOTICE OF REPROGRAMMING.**—If any funds authorized by this Act are subject to a reprogramming action that requires notice to be provided to the Appropriations Committees of the House of Representatives and the Senate, notice of such action

shall concurrently be provided to the Committee on Science of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate.

(b) NOTICE OF REORGANIZATION.—The Secretary of Commerce shall provide notice to the Committees on Science and Appropriations of the House of Representatives, and the Committees on Commerce, Science, and Transportation and Appropriations of the Senate, not later than 15 days before any major reorganization of any program, project, or activity of the National Institute of Standards and Technology.

**SEC. 11. SENSE OF CONGRESS ON THE YEAR 2000 PROBLEM.**

With the year 2000 fast approaching, it is the sense of Congress that the National Institute of Standards and Technology should—

(1) give high priority to correcting all 2-digit date-related problems in its computer systems to ensure that those systems continue to operate effectively in the year 2000 and beyond;

(2) assess immediately the extent of the risk to the operations of the Institute posed by the problems referred to in paragraph (1), and plan and budget for achieving Year 2000 compliance for all of its mission-critical systems; and

(3) develop contingency plans for those systems that the Institute is unable to correct in time.

**SEC. 12. BUY AMERICAN.**

(a) COMPLIANCE WITH BUY AMERICAN ACT.—No funds appropriated pursuant to this Act may be expended by an entity unless the entity agrees that in expending the assistance the entity will comply with sections 2 through 4 of the Act of March 3, 1933 (41 U.S.C. 10a–10c, popularly known as the “Buy American Act”).

(b) SENSE OF CONGRESS.—In the case of any equipment or products that may be authorized to be purchased with financial assistance provided under this Act, it is the sense of Congress that entities receiving such assistance should, in expending the assistance, purchase only American-made equipment and products.

(c) NOTICE TO RECIPIENTS OF ASSISTANCE.—In providing financial assistance under this Act, the Secretary of Commerce shall provide to each recipient of the assistance a notice describing the statement made in subsection (a) by the Congress.

## II. PURPOSE OF THE BILL

The purpose of the bill is to: (1) authorize appropriations for Fiscal Years (FY) 1998 and 1999 for the programs of the National Institute for Standards and Technology (NIST) and the Office of the Under Secretary for Technology and the Office of Technology Policy (US/OTP); and (2) make appropriate revisions to statutes governing NIST’s programs.

## III. BACKGROUND AND NEED FOR LEGISLATION

NIST is the Nation’s oldest federal laboratory. It was established by Congress in 1901 as the National Bureau of Standards (NBS). NBS was renamed NIST by the passage of the Omnibus Trade and Competitiveness Act of 1988. The Act also expanded NIST’s scope by establishing both the Advanced Technology Program (ATP) and the Manufacturing Extension Partnership Program (MEP).

NIST is part of the Department of Commerce. Its mission is to promote economic growth by working with industry to develop and apply technology, measurements, and standards. As the Nation’s arbiter of standards, NIST enables our country’s businesses to engage each other in commerce and participate in the global marketplace.

The precise measurements required for establishing standards associated with today’s increasingly complex technologies require NIST laboratories to maintain the most sophisticated equipment and most talented scientists in the world. To date, NIST has succeeded, and the science conducted by the Institute is a vital compo-

ment of the Nation's civilian research and technology development base.

Maintaining this standard requires continued funding. Currently, none of NIST programs have specific authorizations for FY 1998 or FY 1999. H.R. 1274 provides the needed authorizations to ensure NIST has a clear understanding of what the Congress currently expects of it and maintains its high quality of standards. The bill also provides express authorization for 1998 and 1999 for the Office of the Under Secretary for Technology and the Office of Technology Policy.

#### IV. SUMMARY OF HEARINGS

On March 19, 1997, the Subcommittee on Technology held the first of two hearings to assess the funding requirements for the Department of Commerce Technology Administration in FY 1998 and beyond, as well as review the effectiveness of programs under the Technology Administration. Dr. Mary L. Good, Under Secretary for Technology, Department of Commerce, testified.

In her testimony, Dr. Good said that NIST laboratories are the "crown jewels" of the Technology Administration's programs. She testified in support of the Administration's FY 1998 budget request but stated that she would not comment on the Administration's out-year budget numbers. (A chart compiled by Committee staff of the Administration's budget recommendations for the programs of the Technology Administration follows.) She noted that many of the NIST buildings, since they were all constructed about the same time and almost 40 years ago, are in need of major repair and refurbishing. She also addressed the need for the ATP, MEP and the Malcolm Baldrige National Quality Program. She also noted that since the Office of Technology Assessment was closed, the Technology Administration is the only group doing domestic and international technology assessments. The Technology Administration, she stated, has been streamlined to be more efficient.

[The table referred to follows:]

TABLE 1.—DEPARTMENT OF COMMERCE TECHNOLOGY ADMINISTRATION  
[Dollars in millions]

Technology Admin.	Fiscal years—						Percent change 1997– 2002
	1997 (ap- propriated)	1998	1999	2000	2001	2002	
US/OTP .....	\$9.5	\$9.2	\$9.2	\$9.2	\$9.2	\$9.2	–3
NIST:							
ITS (ATP) .....	225.0	275.6	320.0	350.1	420.3	500.1	122
ITS (MEP) .....	95.0	123.4	116.8	98.2	95.5	96.0	1
STRS (Labs) .....	265.0	271.6	271.6	276.6	280.5	286.6	8
STRS (Baldrige) .....	3.0	5.3	9.5	9.5	9.5	9.5	217
Construction .....	(16.0)	16.7	17.0	17.0	18.0	18.0	(1)
TA/NIST Total .....	581.5	701.8	744.1	760.6	833.0	919.4	58

<sup>1</sup> Not applicable.

On April 10, 1997, the Subcommittee on Technology held its second hearing entitled, "Funding Needs for the National Institute of Standards and Technology Part 2," to receive testimony from out-

side witnesses on the funding requirements for the National Institute of Standards and Technology (NIST) and to review the Administration's FY 1998 budget request and out-year budget projections through FY 2002. The discussion focused on the effectiveness of NIST programs such as the ATP and the MEP program.

Witnesses included: Mr. Allen Li, Associate Director for Energy, Resource and Science Issues, U.S. General Accounting Office (GAO); Mr. Claude Barfield, Director, Science and Technology Policy Studies, American Enterprise Institute; Mr. W.C. Dyer, Director, Michigan Manufacturing Technology Center; Professor Michael Borrus, Co-Director of BRIE, University of California at Berkeley; and Dr. Michael Gough, Director of Science and Risk Studies, CATO.

Mr. Allen Li stated that GAO was releasing a report entitled *Performance Measurement: Strengths and Limitations of Research Indicators (GAO/RCED-97-91)*. This report highlights the difficulty in measuring the impact of technology programs like the ATP and MEP. While not specifically addressing ATP and MEP, the report released on performance measurement shows that there is no single indicator or evaluation that adequately captures the results of R&D. Mr. Li also discuss GAO's reports on ATP. Mr. Li stated that ATP "funded research projects that would have been funded by the private sector, as well as those that would not." He went on to state that 63% of the ATP applicants surveyed indicated that they did not look for private financing before turning to the government for an ATP grant. Further, roughly half of the ATP applicants surveyed indicated that they would go forward with their projects, although not always at the same pace, even without ATP grant funding. The GAO findings are found in two reports: *Efforts to Evaluate the Advanced Technology Program (GAO/RCED-95-68)* and *The Advanced Technology Program and Private Sector Funding (GAO/RCED-96-47)*.

Mr. Claude Barfield addressed the importance of the ATP program in relation to overall U.S. technology policy, the role of government in constructing a technology policy for the United States, and the wisdom of linking ATP with the traditional NIST laboratory functions. He stated while calling for the ATP budget to more than double between 1998 and 2002, that the Administration will allow the budget of the NIST labs to decline substantially in real terms over that same period. Given the more important contribution of the labs to long-term productivity and competitiveness of U.S. industry, it seems to him a mistake to give higher priority to more politically popular grant programs such as ATP.

Mr. W.C. Dyer testified with regard to the Michigan Manufacturing Technology Center (MMTC) and the MEP program. He stated that without the services provided by MMTC many small firms would find it difficult to modernize. If his center loses federal support, it will have to charge higher fees for services and, therefore, many small businesses will not be able to afford its services. The MEP program emphasizes practical, cost-effective solutions for smaller manufactures.

Professor Michael Borrus stated that continued U.S. leadership in technology development is essential for the long-term growth of the domestic economy and for continued competitive success of U.S.

industry in global markets. He spoke in favor of ATP and MEP. International developments make continued support especially urgent. He said that interventionist governments abroad and growing foreign government commitments to technology spending threaten to supplant the United States as the sources of long-term technical progress.

Dr. Michael Gough advocated the abolishment of ATP. He noted that there is no justification for ATP. ATP simply tries to pick winners and losers, and lavishes taxpayer money on winners. He noted further that the problems ATP is intended to address may not exist. In any case, the ATP solution is unnecessary, and the measures of ATP success do not reflect the objectives of the program. He stated that ATP could be eliminated with no damage done to the economy of the country, with tax savings, and with the potential for more private investment in R&D. He said that according to the National Science Board, total expenditures on R&D in 1993 amounted to 2.5 percent of GDP. With GDP being roughly \$6 trillion, private and public spending on R&D was about \$150 billion. Dr. Gough stated that, "it is nothing but silly to think that ATP's expenditure of \$70 million in that year would have made any difference at all." He stated further that if Congress wants to favor R&D, it could do so more directly and with greater chance of success by paying attention to tax policy and regulation.

#### V. COMMITTEE ACTIONS

On April 16, 1997, the Committee on Science convened to mark up H.R. 1274, The National Institute of Standards and Technology Authorization Act of 1997, providing authorizations of appropriations for FY 1998 and FY 1999 for the National Institute for Standards and Technology (NIST) and the Office of the Under Secretary for Technology and the Office of Technology Policy. Of the four amendments offered, one was defeated by roll call and three were adopted by voice vote.

1. Mrs. Morella and Mr. Gordon offered an en bloc amendment to: clarify that the limitation on obligating money for construction in FY 1999 only applies to construction and not maintenance money; clarify that the 60% matching requirement in the bill only applies to the ATP joint ventures and not other joint ventures; exempt small businesses from the 60% match requirement for single ATP applicants; clarify that in assessing whether an ATP project would go forward without federal funding the panel reviewing the grant application should consider the timing of the project; allow federal equipment purchased as part of an ATP grant to vest with an ATP grant recipient after the conclusion of the project so long as its value is considered part of the new 40% federal match requirement; allow entities other than businesses (such as universities) which are ATP joint venture participants to share in any proceeds from patents which are a result of the joint venture; allow three Baldrige awards to be given in each subcategory in each year if they are merited and the awarding results in no additional expense to the Federal Government; make technical corrections to the Next Generation Internet language; clarify that Cooperative Research Agreements (CRADAs) are not subject to the new merit based review process in the bill; and make technical corrections to



the authorization limitation language in the bill. The amendment was agreed to by voice vote.

2. Ms. Stabenow offered an amendment to increase the authorization for the ATP for FY 1998 from \$185,100,000 to \$225,000,000; and strike without prejudice the ATP authorization of \$150,000,000 for FY 1999. The amendment was defeated by a roll call vote of 20 to 19.

3. Mr. Boehlert and Mr. McHale, offered an amendment to strike section 6 of the bill and replace it with a provision permanently lifting the 6-year sunset provision for the MEP program centers and revising the review criteria in section 6 of H.R. 1274 for the centers which had reached their 6-year life cycles. The amendment was adopted by voice vote.

4. Mr. Hastings offered an amendment by Mr. Traficant to require any entity that is appropriated funds pursuant to this act or amendments thereto, to comply with sections 2–4 of the Act of March 3, 1933 (41 U.S.C. 10a–10c, popularly known as the “Buy American Act”). The amendment was adopted by unanimous consent.

With a quorum present, Mr. Sensenbrenner moved that H.R. 1274, as amended, be ordered reported. The motion was adopted by voice vote.

## VI. SUMMARY OF MAJOR PROVISIONS OF THE BILL

H.R. 1274 authorizes \$278,563,000 for NIST laboratory functions in FY 1998 and \$286,919,890 in FY 1999.

H.R. 1274 authorizes \$4,134,500 in FY 1998 and \$5,289,000 in FY 1999 for the Baldrige National Quality Program.

H.R. 1274 authorizes \$16,692,000 for maintenance in FY 1998 and \$67,000,000 for maintenance and needed infrastructure improvements in FY 1999.

H.R. 1274 authorizes \$7,000,000 for FY 1998 and \$7,205,000 for FY 1999 for the Office of the Under Secretary for Technology and the Office of Technology Policy.

H.R. 1274 authorizes \$117,800,000 for the MEP program in FY 1998 and \$111,300,000 in FY 1999.

H.R. 1274 lifts the 6-year sunset provision for MEP centers.

H.R. 1274 authorizes funding of \$185,100,000 and \$150,000,000 for FY 1998 and 1999, respectively, for the ATP.

H.R. 1274 increases the ATP match requirement to 60 percent for non-small business grant recipient and joint ventures and stipulates grants can only be awarded to projects that would not proceed in a timely manner without federal assistance.

## VII. SECTION-BY-SECTION ANALYSIS AND COMMITTEE VIEWS

### *Section 1. Short Title*

The short title of the bill is the “National Institute of Standards and Technology Authorization Act of 1997.”

### *Section 2. Authorization of Appropriations for Scientific and Technical Research and Services*

Section 2 (a) authorizes funding for NIST laboratory activities for Fiscal Years (FY) 1998 and 1999.

Section 2(a)(1) authorizes \$278,563,000 for laboratory activities in FY 1998. Of that total:

- (A) \$38,104,000 is for the Electronics and Electrical Engineering program;
- (B) \$18,925,000 is for the Manufacturing Engineering program;
- (C) \$31,791,000 is for the Chemical Science and Technology program;
- (D) \$30,372,000 is for the Physics program;
- (E) \$50,914,000 is for the Material Science and Engineering program;
- (F) \$13,404,000 is for the Building and Fire Research program;
- (G) \$47,073,000 is for the Computer Science and Applied Mathematics program;
- (H) \$19,376,000 is for Technical Assistance activities; and
- (I) \$28,604,000 is for Research Support activities;

Section 2(a)(2) authorizes \$286,919,890 for laboratory activities in FY 1999. Of that total:

- (J) \$39,247,120 is for the Electronics and Electrical Engineering program;
- (K) \$19,492,750 is for the Manufacturing Engineering program;
- (L) \$32,744,730 is for the Chemical Science and Technology program;
- (M) \$31,283,160 is for the Physics program;
- (N) \$52,441,420 is for the Material Science and Engineering program;
- (O) \$13,806,120 is for the Building and Fire Research program;
- (P) \$48,485,190 is for the Computer Science and Applied Mathematics program;
- (Q) \$19,957,280 is for Technical Assistance activities; and
- (R) \$29,462,120 is for Research Support activities;

Section 2(b) authorizes \$4,134,500 in FY 1998 and \$5,289,000 in FY 1999 for the Malcolm Baldrige National Quality Program.

Section 2(c):

- (1) authorizes \$16,692,000 in FY 1998 and \$67,000,000 in FY 1999 for construction and maintenance of NIST facilities;
- (2) requires that the Secretary of Commerce certify to the House Committee on Science and the Senate Committee on Commerce that all of the FY 1999 construction funds are being used in a manner consistent with NIST's facilities plan.

*Committee Views*  
*NIST Laboratories*

The Committee views the NIST laboratory programs as the “crown jewels” of the Technology Administration. The Committee supports the following authorization levels for NIST Laboratory Programs in FY 1998. (For further information, see Table 2, which follows:)

TABLE 2

Program	Appropriated FY 1997	Administration FY 1998 re- quest	H.R. 1274 FY 1998	Change FY 1998 vs. FY 1997
Electronics and Electrical Engineering .....	\$35,795,000	\$38,104,000	\$38,104,000	\$2,309,000
Manufacturing Engineering .....	18,903,000	18,925,000	18,925,000	22,000
Chemical Sciences and Technologies .....	31,759,000	31,791,000	31,791,000	32,000
Physics .....	27,846,000	27,872,000	30,372,000	2,526,000
Material Sciences .....	50,867,000	50,914,000	50,914,000	47,000
Building and Fire .....	13,389,000	13,404,000	13,404,000	15,000
Computer Science and Applied Mathematics .....	43,026,000	43,073,000	47,073,000	4,047,000
Technical Assistance .....	14,863,000	18,876,000	19,376,000	4,513,000
Research Support .....	28,572,000	28,604,000	28,604,000	32,000
NIST Laboratories .....	265,020,000	271,563,000	278,563,000	13,543,000

The Committee supports a \$2,500,000 increase in FY 1998 from the levels recommended by the Administration for the Physics program to support reengineering measurement services to simplify the delivery of measurement assurance at the point of use. This initiative should increase the accuracy and lower the cost of calibration for the end users of NIST standards.

The Committee supports a \$4,000,000 increase in FY 1998 from the levels recommended by the Administration for the Computer Science and Applied Mathematics program to augment NIST work in the field of computer security. The increase is intended to enable NIST, through its programs, to improve computer security throughout the Federal Government.

The Committee supports a \$500,000 increase in FY 1998 from the levels recommended by the Administration for the Technical Assistance program to support improving measurement standards to facilitate international trade and provide additional funding to implement the National Technology Transfer and Advancement Act of 1995.

The Committee supports the following authorizations for NIST laboratory programs in FY 1999. These funding levels represent a 3 percent increase over the FY 1998 levels authorized by the bill. (See Table 3, which follows:)

TABLE 3

Program	H.R. 1274 FY 1998	H.R. 1274 FY 1999	Change FY 1999 vs. FY 1998
Electronics and Electrical Engineering .....	\$38,104,000	\$39,247,120	\$1,143,120
Manufacturing Engineering .....	18,925,000	19,492,750	567,750
Chemical Sciences and Technologies .....	31,791,000	32,744,730	953,730
Physics .....	30,372,000	31,283,160	911,160
Material Sciences .....	50,914,000	52,441,420	1,527,420

TABLE 3—Continued

Program	H.R. 1274 FY 1998	H.R. 1274 FY 1999	Change FY 1999 vs. FY 1998
Building and Fire .....	13,404,000	13,806,120	402,120
Computer Science and Applied Mathematics .....	47,073,000	48,485,190	1,412,190
Technical Assistance .....	19,376,000	19,957,280	581,280
Research Support .....	28,604,000	29,462,120	858,120
NIST Laboratories .....	278,563,000	286,919,890	8,356,890

*Malcolm Baldrige National Quality Program*

The Committee has authorized an additional \$1,154,500 in FY 1998 and FY 1999 to enable NIST to expand the Baldrige National Quality Program into education and healthcare over the next 2 years.

*Maintenance and Construction*

The Committee believes addressing NIST's infrastructure needs is a priority. The Committee supports authorization levels of \$16,692,000 in FY 1998 and \$67,000,000 in FY 1999 for construction and maintenance of NIST facilities. Of the FY 1999 total, the Committee supports using \$17,000,000 for maintenance and, subject to the limitations of section 2(c)(2), \$50,000,000 for priority infrastructure needs.

*Section 3. Authorization for the Office of the Under Secretary for Technology*

Section 3 authorizes \$7,000,000 for FY 1998 and \$7,205,000 for FY 1999 for the Office of the Undersecretary for Technology and the Office of Technology Policy.

*Committee Views*

The Committee supports funding levels of \$7,000,000 for FY 1998 and \$7,205,000 for FY 1999 for the Office of the Undersecretary for Technology and the Office of Technology Policy. The Committee has not authorized any funding for the \$1,700,000 Experimental Program to Stimulate Competitive Technology (EPSCoT) or the \$350,000 program to support the Administration's foreign policy initiatives through economic development.

*Section 4. Authorization of Appropriations for Industrial Technology Services*

Section 4 authorizes funding for both the ATP and the MEP program in Fiscal Years 1998 and 1999.

(3) Authorizes \$302,900,000 for the ATP and MEP in FY 1998 of which:

- (A) \$185,100,000 is for the ATP; and
- (B) \$117,800,000 is for MEP.

(1) Authorizes \$261,300,000 for the ATP and MEP in FY 1999 of which:

- (A) \$150,000,000 is for the ATP; and
- (B) \$111,300,000 is for MEP.

*Committee Views*

*Manufacturing Extension Partnership Program*

The Committee believes the MEP program has been successful at enhancing the commercial viability of the Nation's small- and medium-sized manufacturing businesses. The Committee supports a funding level for the MEP program of \$117,800,000 in FY 1998. The authorization is intended to fully fund existing eligible MEP centers and the costs associated with administering the MEP program. The Committee has not provided increased funding for supply chain optimization, information technology, and technology infusion.

In FY 1999 the Committee supports a funding level for MEP of \$111,300,000. The authorization is intended to fully fund existing eligible MEP centers and the costs associated with administering the MEP program.

*Advanced Technology Program*

The Committee continues to have serious concerns about the ATP. As of FY 1996, more than \$1.6 billion has been appropriated for the program, yet it continues to be plagued by fundamental questions about its effectiveness in promoting long-term, high-risk technology research. Since its inception, the program has been unable to expend all its appropriated funds, and has been forced to carry-over unobligated balances as large as \$168 million from one fiscal year to the next. Further, its carryover of unexpended obligations has been increasing since 1995. By the end of FY 1997, unexpended obligations are estimated by the GAO to total over \$440 million. The Committee is interested in future inquiry on the issue of \$440 million in unexpended obligations to determine whether or not such balances are excessive or reflect the Agency's programmatic requirements. In an era of scarce federal research and development dollars, funding ATP is simply a low priority.

While the Committee has authorized \$185,100,000 for the ATP in FY 1998, the level represents a \$40 million reduction from FY 1997. In FY 1999, the Committee supports a funding level of \$150,000,000 for the ATP.

*Section 5. National Institute of Standards and Technology Act Amendments*

Section 5(a) amends the NIST Act provisions which govern the ATP to:

- (1) allow ATP grants to be given for contracts and "other transactions";

- (2) increase the match requirements for ATP grants for joint ventures to 60 percent;
- (3) make conforming changes to the act associated with (2);
- (4) allows ATP grants to be given for cooperative agreements and “other transactions”;
- (5) increase the match requirements for ATP grants for single recipients (with the exception of small businesses) to 60 percent;
- (6) specify that “other transactions” should only be used if standard contracts, grants or cooperative agreements are not feasible or appropriate;
- (7) require that, as part of the merit review which occurs in advance of any ATP grant award, the reviewers determine that the research project in question would not go forward in a timely manner without federal assistance;
- (8) allow grants to be expanded beyond the 5 year deadline to finish up projects so long as it results in no additional cost to the Federal Government and it is in the Federal Government’s best interest.
- (9) allow the Secretary of Commerce to vest title to tangible personal property in ATP grant recipients so long as
  - (1) the property is purchased as part of the ATP grant; and
  - (2) the Secretary of Commerce determines that the vesting furthers the objectives of NIST.

The Secretary may place limitations on the vesting made under this subsection and the vesting shall be made with no additional cost to the Federal Government.

*Section 5(b). Additional Amendments*

- (1) amends the NIST Act provisions which govern the ATP to also allow non-industry joint venture participants such as universities and independent research organizations to, as agreed by the parties to the joint-venture, share in any intellectual property rights arising from the joint venture.
- (2) stipulates that the provisions of (1) is not retroactive.

*Committee Views*

*Advanced Technology Program Statutory Revisions*

The Committee is concerned with the findings of the GAO on ATP. GAO found that 63% of the ATP applicants surveyed had not sought private sector funding before applying for an ATP grant. Further, GAO found that roughly half of the ATP applicants surveyed reported that they would go forward with their projects even in the absence of ATP grant funding.

The Committee, therefore, supports limiting ATP grants to long-term, high-risk projects that could not successfully proceed without federal assistance. The Committee further supports leveraging ATP funds by requiring joint ventures and non-small business single applicants to contribute 60% to the cost of every ATP project.

Additionally, the Committee supports granting intellectual property rights associated with ATP joint ventures to universities participating in those ventures.

The Committee further notes that the dollar value of any property vested in an ATP grant recipient by the Secretary of Commerce under the new section 28(l) of the National Institute of Standards and Technology Act established under this section must count in calculating the new 40% federal share cap for ATP awards.

*Section 6. Limited Manufacturing Extension Partnership Program Center Extension*

Section 6 allows MEP centers which reach their 6-year life-cycles to continue to receive funds if the centers receive a positive evaluation through an independent review. The centers must be reviewed at least every 2 years under a process established by NIST. The federal funding for the centers after they have reached their 6-year life-cycles shall not exceed 33 $\frac{1}{3}$ %.

*Committee Views*

The Committee continues to support the MEP program. The Committee expects that the reviews conducted under section 6 of this bill will be both thorough and independent. The Committee notes that the 33 $\frac{1}{3}$ % cap on federal contributions to all centers which have exhausted their original 6-year life-cycles is a ceiling. The Committee supports efforts to make individual centers more self-sufficient and less reliant on federal funding whenever possible.

*Section 7. Malcolm Baldrige Quality Award*

Amends the Stevenson-Wydler Technology Innovation Act of 1980 to allow up to three Baldrige Quality Awards to be given per subcategory in any given year as long as the third award results in no additional cost to the Federal Government.

*Committee Views*

The Committee does not support granting three awards per subcategory per year on a regular basis. The Committee expects that the granting of a third award will be the exception, not the rule.

*Section 8. Next Generation Internet*

Ensures that the Committee will have the opportunity to review and authorize the Next Generation Internet (NGI), while at the same time allowing for minimal on-going standards research work on technologies associated with the next generation of the Internet.

*Committee Views*

The progression of our country's computer networking technology plays a vital role in our Nation's continued leadership in scientific research. The Committee, however, feels it necessary to develop more of a record before addressing funding for NGI, and is working with the Administration to develop a plan concerning NGI. The Committee expects to hold hearings on NGI in the future to better understand how it will further the goals of advancing network technologies.

*Section 9. Limitations*

*(a) Prohibition of Lobbying Activities*

Prohibits the use of funds authorized by this Act for any activity whose purpose is to influence legislation pending before the Congress. This section does not prevent employees of the departments and agencies from communicating with Members of Congress to conduct public business.

*Committee Views*

The Committee is committed to ensuring that awards for research and education are used solely for those purposes. Funds should not be used for any purpose, other than that specified in the award. The Committee, however, does not exclude appropriate communications between the Executive Branch and the Congress.

*(b) Limitation on Appropriations*

Disallows authorization of funds which are not specifically authorized to be appropriated by this Act for FY's 1998 and 1999, or by an Act of Congress in succeeding fiscal years.

*Committee Views*

This section emphasizes the Committee's position that the only funds authorized to be appropriated for NIST are made available through this Act. It is the Committee's position that authorizations designating specific sums are required for appropriations of any funds to be considered authorized. Organic act authority permits agency missions and programmatic activity, but is not sufficient to authorize actual funding.

*(c) Eligibility for Awards*

Requires the head of each federal agency for which funds are authorized under this act to exclude, for a period of 5 years, any person who received funds for a project not subject to competitive, merit-based review process after FY 1997. This section is not applicable to the long-standing Cooperative Research and Development Agreement programs nor awards to persons who are members of a class specified by law for which assistance is awarded according to formula provided by law.

*Committee Views*

The Committee has a long-standing position that awards should be based on a competitive merit-based process. Merit reviews allow taxpayers' dollars to be spent in the most cost-effective manner.

*Section 10. Notice*

If any funds of this act, or amendments made by this act, are subject to reprogramming which requires notice to be given to the Appropriations Committees of the House of Representatives and the Senate, notice of such action shall be concurrently provided to this Committee and the Committee on Commerce, Science, and Transportation of the Senate.

If any program, project, or activity of NIST is preparing to undergo any major reorganization, the Secretary of Commerce shall no-



tify the Committees on Science and Appropriations of the House of Representatives and the Committees on Commerce, Science, and Transportation and Appropriations of the Senate no later than 15 days prior to such reorganization.

*Committee Views*

The Committee believes that such notice must be given if it is to carry out its oversight responsibilities under the Rules of the House.

*Section 11. Sense of the Congress on the Year 2000 Problem*

It is the sense of Congress that NIST should give high priority to correcting the year 2000 problem in all of its computer systems to ensure effective operation in the year 2000 and beyond. NIST needs to assess immediately the risk of the problem upon their systems and develop a plan and a budget to correct the problem for its mission-critical programs. NIST also needs to begin consideration of contingency plans, in the event that certain systems are unable to be corrected in time.

*Committee Views*

Despite knowing of the problem for years, the Federal Government has yet to adequately create strategies to address the year 2000 problem. The Committee believes Congress should continue to take a leadership role in raising awareness about the issue with both government and the private sector.

The potential impact on federal programs if the year 2000 problem is not corrected in an effective and timely manner is substantial and potentially serious. If federal computers are not prepared to handle the change of date on January 1, 2000, there is a risk to all government systems and the programs they support. It is imperative that such corrective action be taken to avert disruption to critical Federal Government programs.

*Section 12. Buy American*

Requires any entity that is appropriated funds pursuant to this act or amendments thereto, to comply with sections 2-4 of the Act of March 3, 1933 (41 U.S.C. 10a-10c, popularly known as the "Buy American Act"). Requires that recipients of funds pursuant to this act shall be notified of subsection (a)'s requirement of compliance with the Buy American Act.

*Committee Views*

It is the view of this Committee that the Federal Government should buy goods manufactured in the United States when feasible, where cost-effective, and practicable.

VIII. COST ESTIMATE

Clause 7(a) of rule XIII of the Rules of the House of Representatives requires each committee report accompanying each bill or joint resolution of a public character to contain: (1) an estimate, made by such Committee, of the costs which would be incurred in carrying out such bill or joint resolution in the fiscal year in which it is reported, and in each of the 5 fiscal years following such fiscal

year (or for the authorized duration of any program authorized by such bill or joint resolution, if less than 5 years); (2) a comparison of the estimate of costs described in subparagraph (1) of this paragraph made by such Committee with an estimate of such costs made by any Government agency and submitted to such Committee; and (3) when practicable, a comparison of the total estimated funding level for the relevant program (or programs) with the appropriate levels under current law. However, clause 7(d) of that rule provides that this requirement does not apply when a cost estimate and comparison prepared by the Director of the Congressional Budget Office under section 403 of the Congressional Budget Act of 1974 has been timely submitted prior to the filing of the report and included in the report pursuant to clause 2(1)(3)(C) of rule XI. A cost estimate and comparison prepared by the Director of the Congressional Budget Office under section 403 of the Congressional Budget Act of 1974 has been timely submitted prior to the filing of this report and included in Section IX of this report pursuant to clause 2(1)(3)(C) of rule XI.

Clause 2(1)(3)(B) of rule XI of the Rules of the House of Representatives requires each committee report that accompanies a measure providing new budget authority (other than continuing appropriations), new spending authority, or new credit authority, or changes in revenues or tax expenditures to contain a cost estimate, as required by section 308(a)(1) of the Congressional Budget Act of 1974 and, when practicable with respect to estimates of new budget authority, a comparison of the total estimated funding level for the relevant program (or programs) to the appropriate levels under current law. H.R. 1274 does not contain any new budget authority, credit authority, or changes in revenues or tax expenditures. Assuming that the sums authorized under the bill are appropriated, H.R. 1274 does authorize additional discretionary spending, as described in the Congressional Budget Office report on the bill, which is contained in Section IX of this report.

#### IX. CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

U.S. CONGRESS,  
CONGRESSIONAL BUDGET OFFICE,  
*Washington, DC, April 18, 1997.*

Hon. F. JAMES SENSENBRENNER, Jr.,  
*Chairman, Committee on Science,  
House of Representatives, Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 1274, the National Institute of Standards and Technology Authorization Act of 1997.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contacts are Rachel Forward and Victoria Heid Hall (for federal costs), and Pepper Santalucia (for the state and local impact).

Sincerely,

JAMES L. BLUM  
(For June E. O'Neill, Director).

Enclosure.

*H.R. 1274—National Institute of Standards and Technology Authorization Act of 1997*

Summary: H.R. 1274 would authorize appropriations for fiscal years 1998 and 1999 for various programs within the National Institute of Standards and Technology (NIST) and for the office of the Under Secretary for Technology in the Department of Commerce. The bill also would make several amendments to the National Institute of Standards and Technology Act including one that would allow NIST to assist certain regional centers for the transfer of manufacturing technology for more than the six years currently permitted.

Assuming appropriation of the authorized amounts, CBO estimates that enacting H.R. 1274 would result in additional discretionary spending of about \$1.2 billion over the 1998–2002 period. The legislation would not affect direct spending or receipts; therefore, pay-as-you-go procedures would not apply. H.R. 1274 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act of 1995 (UMRA).

Estimated cost to the Federal Government: The estimated budgetary impact of H.R. 1274 is shown in the table on the following page. For the purposes of this estimate, CBO assumes that all amounts authorized will be appropriated by the start of each fiscal year and that outlays will follow the historical spending patterns for the affected programs.

Based on information from NIST, CBO estimates that the authorized amounts would be sufficient to cover the additional costs of extending the amount of time that NIST could assist the regional centers for the transfer of manufacturing technology. CBO estimates that the other provisions of the bill would have no significant budgetary impact.

	By fiscal years in millions of dollars—					
	1997	1998	1999	2000	2001	2002
SPENDING SUBJECT TO APPROPRIATION						
Spending Under Current Law:						
Budget authority <sup>1</sup> .....	582	0	0	0	0	0
Estimated outlays .....	636	396	226	93	3	3
Proposed Changes:						
Authorization level .....	0	610	627	0	0	0
Estimated outlays .....	0	253	397	271	217	85
Spending Under H.R. 1274:						
Authorization level <sup>1</sup> .....	582	610	627	0	0	0
Estimated outlays .....	363	649	623	364	220	88

<sup>1</sup>The 1997 level is the amount appropriated for that year.

The costs of this legislation fall within budget function 370 (commerce and housing credit).

Pay-as-you-go considerations: None.

Estimated impact on State, local, and tribal governments: The bill contains no intergovernmental mandates as defined in UMRA, but several sections of the bill would affect grant programs that benefit site and local governments. The bill would authorize appropriations totaling about \$229 million for fiscal years 1998 and 1999 for the Manufacturing Extension Partnership (MEP), a program jointly financed by the federal government and state or local agencies. The MEP is a program designed to enhance productivity and

technological performance in the United States, and is made up of the State Technology Extension Program (STEP) and the Manufacturing Extension Centers Program (MECP). The STEP program provides technical assistance and planning grants to states to develop or revitalize their technology programs. The MECP program involves cooperative agreements between the federal government and nonprofit institutions that are often funded by state or local development agencies or universities.

The bill would also extend the length of time that the extension centers are eligible to receive federal funding. Under current law, cooperative agreements last as long as six years. Such agreements provide up to 50 percent funding for the centers in the first three years and a declining percentage in subsequent years. The bill would allow a center to continue receiving federal funding after the sixth year as long as it passed periodic reviews.

Two provisions in the bill would affect eligibility for federal grants. The first would require compliance with the “Buy American Act.” The second would exclude grantees from consideration for awards if they had received funds under any other federal grant program that was not subject to a competitive, merit-based award process. The latter provision could change the allocation of funds among grant recipients, including state universities and colleges. CBO cannot predict how the share of research funding awarded to public universities and colleges would change because of this provision.

Estimated impact on the private sector: The bill would impose no new private-sector mandates as defined in UMRA.

Estimate prepared by: Federal Cost: Rachel Forward and Victoria Heid Hall (266–2860). Impact on State, Local, Tribal Government: Pepper Santalucia (225–3220).

Estimate approved by: Robert A. Sunshine, Deputy Assistant Director for Budget Analysis.

#### X. COMPLIANCE WITH PUBLIC LAW 104–4

H.R. 1274 contains no unfunded mandates.

#### XI. COMMITTEE OVERSIGHT FINDINGS AND RECOMMENDATIONS

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

#### XII. OVERSIGHT FINDINGS AND RECOMMENDATIONS BY THE COMMITTEE ON GOVERNMENT REFORM AND OVERSIGHT

Clause 2(1)(3)(D) of rule XI of the Rules of the House of Representatives requires each committee report to contain a summary of the oversight findings and recommendations made by the House Government Reform and Oversight Committee pursuant to clause 4(c)(2) of rule X, whenever such findings and recommendations have been submitted to the Committee in a timely fashion. The Committee on Science has received no such findings or recommendations from the Committee on Government Reform and Oversight.

XIII. CONSTITUTIONAL AUTHORITY STATEMENT

Clause 2(1)(4) of rule XI of the Rules of the House of Representatives requires each report of a Committee on a bill or joint resolution of a public character to include a statement citing the specific powers granted to the Congress in the Constitution to enact the law proposed by the bill or joint resolution. Article I, section 8 of the Constitution of the United States grants Congress the authority to enact H.R. 1274.

XIV. FEDERAL ADVISORY COMMITTEE STATEMENT

This legislation does not establish or authorize the establishment of a new advisory committee.

XV. CONGRESSIONAL ACCOUNTABILITY ACT

The Committee finds that H.R. 1274 does not relate to the terms and conditions of employment or access to public services or accommodations within the meaning of section 102(b)(3) of the Congressional Accountability Act (Public Law 104-1).

XVI. 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**

REGIONAL CENTERS FOR THE TRANSFER OF MANUFACTURING TECHNOLOGY

SEC. 25. (a) \* \* \*

\* \* \* \* \*

(c)(1) \* \* \*

\* \* \* \* \*

(5) Each Center which receives financial assistance under this section shall be evaluated during its third year of operation by an evaluation panel appointed by the Secretary. Each such evaluation panel shall be composed of private experts, none of whom shall be connected with the involved Center, and Federal officials. An official of the Institute shall chair the panel. Each evaluation panel shall measure the involved Center's performance against the objectives specified in this section. The Secretary shall not provide funding for the fourth through the sixth years of such Center's operation unless the evaluation is positive. If the evaluation is positive, the Secretary may provide continued funding through the sixth year at declining levels[, which are designed to ensure that the Center no longer needs financial support from the Institute by the seventh year. In no event shall funding for a Center be provided by the Department of Commerce after the sixth year of the operation of a Center.]. *After the sixth year, a Center may receive addi-*

*tional financial support under this section if it has received a positive evaluation through an independent review, under procedures established by the Institute. Such an independent review shall be required at least every two years after the sixth year of operation. Funding received for a fiscal year under this section after the sixth year of operation shall not exceed the proportion of the capital and annual operating and maintenance costs of the Center received by the Center during its sixth year of operation.*

\* \* \* \* \*

ADVANCED TECHNOLOGY PROGRAM

SEC. 28. (a) \* \* \*

(b) Under the Program established in subsection (a), and consistent with the mission and policies of the Institute, the Secretary, acting through the Director, and subject to subsections (c) and (d), may—

(1) aid industry-led United States joint research and development ventures (hereafter in this section referred to as “joint ventures”) (which may also include universities and independent research organizations), including those involving collaborative technology demonstration projects which develop and test prototype equipment and processes, through—

(A) provision of organizational and technical advice; and

(B) participation in such joint ventures by means of grants, cooperative agreements, **[or contracts]** *contracts, and, subject to the last sentence of this subsection, other transactions*, if the Secretary, acting through the Director, determines participation to be appropriate, *and if the non-Federal participants in the joint venture agree to pay at least 60 percent of the total costs of the joint venture during the Federal participation period under this section, which shall not exceed 5 years*, which may include (i) partial start-up funding, **[(ii) provision of a minority share of the cost of such joint ventures for up to 5 years, and (iii)]** *and (ii) making available equipment, facilities, and personnel*, provided that emphasis is placed on areas where the Institute has scientific or technological expertise, on solving generic problems of specific industries, and on making those industries more competitive in world markets;

(2) provide grants to and enter into contracts **[and cooperative agreements]**, *cooperative agreements, and, subject to the last sentence of this subsection, other transactions* with United States businesses (especially small businesses)**],** provided that emphasis is **]** *on the condition that grant recipients (other than small businesses within the meaning of the Small Business Act) provide at least 60 percent of the costs of the project, with emphasis* placed on applying the Institute’s research, research techniques, and expertise to those organizations’ research programs;

(3) involve the Federal laboratories in the Program, where appropriate, using among other authorities the cooperative research and development agreements provided for under section

12 of the Stevenson-Wydler Technology Innovation Act of 1980; and

(4) carry out, in a manner consistent with the provisions of this section, such other cooperative research activities with joint ventures as may be authorized by law or assigned to the Program by the Secretary.

*The authority under paragraph (1)(B) and paragraph (2) to enter into other transactions shall apply only if the Secretary, acting through the Director, determines that standard contracts, grants, or cooperative agreements are not feasible or appropriate, and only when other transaction instruments incorporate terms and conditions that reflect the use of generally accepted commercial accounting and auditing practices.*

\* \* \* \* \*

(d) When entering into contracts or making awards under subsection (b), the following shall apply:

(1) No contract or award may be made until the research project in question has been subject to a merit review, and has, in the opinion of the reviewers appointed by the Director and the Secretary, acting through the Director, been shown to have scientific and technical merit *and be of a nature and scope that would not be pursued in a timely manner without Federal assistance.*

\* \* \* \* \*

(11)(A) Title to any intellectual property arising from assistance provided under this section shall vest in a company or companies incorporated in the United States[.] *or any other participant in a joint venture receiving financial assistance under this section, as agreed by the parties, notwithstanding the requirements of section 202(a) and (b) of title 35, United States Code.* The United States may reserve a nonexclusive, nontransferable, irrevocable paid-up license, to have practiced for or on behalf of the United States, in connection with any such intellectual property, but shall not, in the exercise of such license, publicly disclose proprietary information related to the license. Title to any such intellectual property shall not be transferred or passed, except to a company incorporated in the United States, until the expiration of the first patent obtained in connection with such intellectual property.

\* \* \* \* \*

(k) *Notwithstanding subsection (b)(1)(B) and subsection (d)(3), the Director may grant extensions beyond the deadlines established under those provisions for joint venture and single applicant awardees to expend Federal funds to complete their projects, if such extension may be granted with no additional cost to the Federal Government and it is in the Federal Government's interest to do so.*

(l) *The Secretary, acting through the Director, may vest title to tangible personal property in any recipient of financial assistance under this section if—*

(1) *the property is purchased with funds provided under this section; and*

(2) *the Secretary, acting through the Director, determines that the vesting of such property furthers the objectives of the Institute.*

*Vesting under this subsection shall be subject to such limitations as are prescribed by the Secretary, acting through the Director, and shall be made without further obligation to the United States Government.*

---

**SECTION 17 OF THE STEVENSON-WYDLER TECHNOLOGY INNOVATION ACT OF 1980**

**SEC. 17. MALCOLM BALDRIGE NATIONAL QUALITY AWARD.**

(a) \* \* \*

\* \* \* \* \*

(c) CATEGORIES IN WHICH AWARD MAY BE GIVEN.—(1) \* \* \*

\* \* \* \* \*

(3) Not more than two awards may be made within any subcategory in any year, *unless the Secretary determines that a third award is merited and can be given at no additional cost to the Federal Government* (and no award shall be made within any category or subcategory if there are no qualifying enterprises in that category or subcategory).

\* \* \* \* \*

**XVII. COMMITTEE RECOMMENDATIONS**

On April 16, 1997, a quorum being present, the Committee favorably reported H.R. 1274, the National Institute of Standards and Technology Authorization Act of 1997 by a voice vote, and recommends its enactment.



#### XVIII. ADDITIONAL VIEWS BY HON. TOM COBURN

As a scientist trained as a physician, I recognize the importance of scientific and mathematical advancement. However, during this time of financial uncertainty, I cannot support the proposed budgetary increase for the National Institute of Standards and Technology (NIST) Authorization Act of 1997.

I am pleased that the Committee chose not to fund two new initiatives requested by the Administration for The Experimental Program to Stimulate Competitive Technology (EPSCoT) and other foreign policy initiatives through economic development. I am also encouraged that the NIST budget was not funded at the Administration's request.

However, during this time of financial uncertainty, I cannot support the proposed budgetary increase, regardless of how insignificant it might seem. During hearings and subsequent markups, the Committee has learned that the initiatives such as the Advanced Technology Program have millions of dollars in unobligated funds.

Furthermore, research and development thrives in the private sector, where competition fuels ingenuity, drives technology, improves efficiency, and stimulates the economy. Acknowledging this, I do not believe the NIST truly needs an increase of more than \$46 million over the next two years.

TOM A. COBURN.

## XIX. ADDITIONAL VIEWS

We were heartened that H.R. 1274 as introduced did contain two-year authorizations for both the Advanced Technology Program (ATP) and the Manufacturing Extension Partnership (MEP). However, we were gravely concerned over the funding levels for ATP and its future viability at these levels. The FY98 authorization level in H.R. 1274 would allow for \$66 million in new awards, but the FY99 funding level of \$150 million would not even allow the program to meet its existing obligations.

The Nation needs—and can have—a multi-faceted, bipartisan policy to promote innovation, and the ATP should be an integral element of that policy. With declining defense budgets, neither a captive defense industry for the military nor reliance on spin-offs for the commercial economy represents a credible path to technological innovation. The ATP catalyzes the best efforts of industry, universities and government to promote innovation in this changed environment. It can contribute to a strong and growing economy by fostering enabling technologies that will lead to new, innovative products, services, and industrial processes. And, unlike most government programs, research priorities for the ATP are largely set by industry.

The ATP works by encouraging a necessary change in how industry approaches R&D. It is widely documented that the globalization of markets, the rapid pace of technology, and the pressures of the bottom line are combining to drive private-sector R&D to an increasingly narrow, short-term focus. As the GAO found in their recent report *Measuring Performance: Strength and Limitations of Research Indicators*: “Companies told GAO that they are focusing more of the spending on short-term R&D projects.” There is a growing gap in U.S. industry between basic research and product development, which is just the gap that the ATP was designed to fill. The nature of ATP projects, risky but broadly applicable, stimulates joint research ventures that link small suppliers with users, or that link several firms and universities together to solve a generic problem common to all.

We supported an amendment offered by Rep. Stabenow (D-MI) that would have provided \$225 million in FY98 funding, a freeze from the FY97 level. The Stabenow amendment was silent on FY99 funding for ATP, pending the completion of Secretary Daley’s review of the program. We felt that this approach was eminently reasonable. It would have introduced an element of stability and consistency into the program, factors which have been noticeably lacking in the politicized environment of recent years. We understand Chairman Sensenbrenner’s concern over un-obligated balances in the program, but would note that much of this problem is attributable to Congressional actions. In recent year, Congress has threatened to terminate the program, has rescinded funds, and has

directed the ATP not to make new awards with current funds. In short, it has provided neither a stable funding profile nor a supportive environment for the program.

The Stabenow amendment was a common-sense approach that aimed to take politics out of the ATP. We believe it to be the best approach and will continue to support efforts to maintain current ATP funding levels.

GEORGE E. BROWN, Jr.  
BART GORDON.  
JAMES A. TRAFICANT.  
TIM ROEMER.  
BUD CRAMER.  
JIM BARCIA.  
PAUL MCHALE.  
EDDIE BERNICE JOHNSON.  
ALCEE L. HASTINGS.  
LYNN N. RIVERS.  
ZOE LOFGREN.  
MIKE DOYLE.  
SHEILA JACKSON LEE.  
BILL LUTHER.  
WALTER CAPPS.  
DEBBIE STABENOW.  
BOB ETHERIDGE.  
NICK LAMPSON.  
DARLENE HOOLEY.

COMMITTEE ON SCIENCE - ROLL CALL - 105<sup>TH</sup> CONGRESS

DATE: 4-16-97 SUBJECT: HR 1274 Ms. Stabenow Amendment on ATP

Rm.	Phone	Member	Yes	No	Not Voting	Present	Absent
2332	55101	Mr. Sensenbrenner, R-WI		1			
2246	53665	Mr. Boehlert, R-NY		2			
2368	53515	Mr. Fawell, R-IL		20			
2228	55341	Mrs. Morella, R-MD		3			
2452	52011	Mr. Curt Weldon, R-PA		4			
2338	52415	Mr. Rohrabacher, R-CA		5			
2404	56316	Mr. Schiff, R-NM					✓
2264	52002	Mr. Barton, R-TX					✓
1034	51986	Mr. Calvert, R-CA		6			
322	52721	Mr. Bartlett, R-MD		7			
1717	53831	Mr. Ehlers, R-MI		8			
216	53671	Mr. Dave Weldon, R-FL		9			
115	52635	Mr. Salmon, R-AZ					✓
224	51492	Mr. Thomas Davis, R-VA		10			
425	52472	Mr. Gutknecht, R-MN		11			
113	55792	Mr. Foley, R-FL		12			
2417	52371	Mr. Ewing, R-IL		13			
427	55031	Mr. Pickering, R-MS					
118	57751	Mr. Cannon, R-UT		14			
1531	54901	Mr. Brady, R-TX		15			
1431	53011	Mr. Cook, R-UT		16			
1721	55406	Mr. English, R-PA		17			
1527	52006	Mr. Nethercutt, R-WA		18			
429	52701	Mr. Coburn, R-OK		19			
1318	52231	Mr. Sessions, R-TX					✓
2300	56161	Mr. Brown, D-CA	1				
2221	56673	Mr. Hall, D-TX					✓
2201	54231	Mr. Gordon, D-TN	2				
2446	55261	Mr. Traficant, D-OH					✓
2348	53915	Mr. Roemer, D-IN	3				
2416	54801	Mr. Cramer, D-AL	4				
2419	58171	Mr. Barcia, D-MI	5				
217	56411	Mr. McHale, D-PA	6				
1123	58885	Ms. Johnson, D-TX	7				
1039	51313	Mr. Hastings, D-FL	8				
1724	56261	Ms. Rivers, D-MI	9				
318	53072	Ms. Lofgren, D-CA	10				
126	54865	Mr. Doggett, D-TX	11				
133	52135	Mr. Doyle, D-PA	12				
410	53816	Ms. Jackson-Lee, D-TX	13				
117	52271	Mr. Luther, D-MN	14				
1118	53601	Mr. Capps, D-CA	15				
1516	54872	Ms. Stabenow, D-MI	16				
1641	54531	Mr. Etheridge, D-NC	17				
417	56565	Mr. Lampson, D-TX	18				
1419	55711	Ms. Hooley, D-OR	19				
TOTAL			19	20			

Attest: *Patricia Schwartz* (Clerk)