NATIONAL TECHNOLOGY TRANSFER AND ADVANCEMENT ACT OF 1995 (House of Representatives - December 12, 1995)

Mrs. MORELLA. Mr. Speaker, I yield myself such time as I may consume.

(Mrs. MORELLA asked and was given permission to revise and extend her remarks.)

Mrs. MORELLA. Mr. Speaker, the Science Committee has a long history of encouraging, in a strong bipartisan manner, the transfer of technology and collaboration between our Federal laboratories and industry.

This afternoon, as we consider H.R. **2196** , the National Technology Transfer and Advancement Act of 1995, we are following in that tradition.

I am very pleased to have my distinguished colleagues, Science Committee Chairman **Walker,** Science committee ranking Member Congressman **Brown,** and my Technology Subcommittee ranking member, Congressman **Tanner,** as original cosponsors of H.R. **2196** . Additionally, S. 1164, the Senate companion bill to H.R. **2196** , has been introduced by Senator **Rockefeller** and has passed the Senate Commerce Committee.

I am also very pleased with the strong outside support H.R. **2196** has received. The administration, and a series of Federal agency officials, Federal laboratory directors, as well as a broad spectrum of industry association representatives and private sector officers have all endorsed passage of the Act as an effective method to enhance our Nation's international competitiveness.

Mr. Speaker, successful technology transfer results in the creation of innovative products or processes becoming available to meet or induce

market demand. Congress has long tried to encourage technology transfer to the private sector created in our Federal laboratories.

This is eminently logical since Federal laboratories are considered one of our Nation's greatest assets; yet, they are also a largely untapped resource of technical expertise.

The United States has over 700 Federal laboratories, employing one of six scientists in the Nation and occupying one-fifth of the country's lab and equipment capabilities.

It is, therefore, important to our future economic well-being to make the ideas and resources of our Federal laboratory scientists available to United States companies for commercialization opportunities.

Beginning with the landmark Stevenson-Wydler Technology Innovation Act of 1980, through the Federal Technology Transfer Act of 1986, among others, Congress has promoted technology transfer efforts, especially through a cooperative research and development agreement [CRADA].

The CRADA mechanism allows a laboratory and an industrial company to negotiate patent rights and royalties before they conduct joint research, giving the company patent protection for any inventions and products that result from the collaboration. This patent protection provides an incentive for the companies to invest in turning laboratory ideas into commercial products.

A CRADA provides a Federal laboratory with valuable insights into the needs and priorities of industry, and with the expertise available only in industry, that enhances a laboratory's ability to accomplish its mission.

Since the inception in 1986 of the CRADA legislation, over 2,000 have been signed, resulting in the transfer of technology, knowledge, and expertise back and forth between our Federal laboratories and the private sector.

Despite the success of the CRADA legislation, there are, however, existing impediments to private companies entering into a CRADA.

The law was originally designed to provide a great deal of flexibility in the negotiation of intellectual property rights to both the private sector partner and the Federal laboratory.

The law, however, provides little guidance to either party on the adequacy of those rights a private sector partner should receive in a CRADA. Agencies are given broad discretion in the determination of intellectual property rights under CRADA legislation.

This has often resulted in laborious negotiations of patent rights for certain laboratories and their partners each time they discuss a new CRADA.

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Mr. TANNER. Mr. Speaker, I yield myself such time as I may consume.

(Mr. TANNER asked and was given permission to revise and extend his remarks.)

Mr. TANNER. Mr. Speaker, I rise in support of H.R. **2196** , the National Technology Transfer and Advancement Act of 1995. I want to commend Chairwoman **Morella** for her continued and strong support of technology transfer from the Federal laboratories. We have worked on this bill in a spirit of bipartisan cooperation and it addresses gaps in our current technology transfer laws.

This is a short bill, the sections dealing with technology transfer are only nine pages, yet it impacts an area of considerable Federal investment. This bill amends and improves existing technology transfer laws affecting more than 700 Federal laboratories. H.R. **2196** enhances the ability of our national laboratories to work with industry to develop and commercialize new technologies.

Cooperative research and development agreements [CRADA's] represent a sizeable investment by the Federal Government and the private sector. Federal laboratories will have more than 6,000 active cooperative research and development agreements with industry and universities in 1995, representing more than $5 billion in Federal investment and matched by private sector partners.

I have witnessed firsthand the importance of technology transfer in maintaining the vitality of our Federal labs and to the economy. Oak Ridge National Laboratory in Tennessee accounts for almost 20 percent of all CRADA's signed by DOE laboratories and contractors. Since 1990, Oak Ridge National Lab has: Invested more than $320 million in cooperative research with industry; signed more than 280 CRADA's--39 percent of them with small businesses; issued more than 152 technology licenses and has a patent portfolio of over 400 licensable technologies; and, applied for almost 100 patents per year.

These activities have resulted in more than $80 million in sales and have generated $3.5 million in royalty payments to Oak Ridge. More importantly, technology transfer activities at Oak Ridge have fostered more than 55 new business and 3,000 private-sector jobs in the past 10 years--17 new businesses have been created as the result of CRADAs in the past 2 years alone.

Additionally, the bill extends the time that Federal labs have to reinvest royalty payments for scientific research and development at the labs. At a time when we are cutting the labs' budgets, we should allow them to benefit from the fruits of their labors.

The Federal labs are a national resource which should benefit all Americans. The labs have worked for the well-being of Americans since their earliest days and not only in terms of national security. It was in the early 1960's that a team of scientists and engineers from the Oak Ridge National Laboratory working with industry developed a machine and a process that have since been credited with saving millions of lives a year worldwide. In less than 1 year this private/public partnership developed a process and machine for isolating and purifying viruses to create vaccines--most notably to treat influenza.

The vaccines produced by this new process eliminated the sometimes severe side effects common with standard vaccines. Severe allergic reaction prevented the administration of the standard vaccine to the young and the old--the very people who needed it. The unique expertise of Oak Ridge scientists and engineers working with their colleagues in industry made this possible.

We should strengthen and build upon the 30-year tradition of cooperation between the national labs and industry. H.R. 21961 makes it easier for the Government and industry to work together--each contributing their respective strengths. We have invested billions of dollars in our research infrastructure and we shouldn't just rely on luck and hope that this investment will be fully utilized.

The bill provides needed incentives to promote public-private technology partnerships. H.R. **2196** deserves our support.

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Mrs. MORELLA. Mr. Speaker, I want to thank the gentleman from Tennessee [Mr. **Tanner**] for his comments and for his support. He does exemplify, as does the gentleman from California [Mr. **Brown**], bipartisan cooperation on this bill and in other legislation that enhances our competitiveness.

Mr. Speaker, I yield 7 minutes to the gentleman from Minnesota [Mr. **Gutknecht**], a very distinguished member of the subcommittee.

Mr. GUTKNECHT. Mr. Speaker, I thank the gentlewoman and the chairman for yielding time to me.

Mr. Speaker, I rise today in support of H.R. **2196** the National Technology Transfer and Advancement Act of 1995. This legislation will encourage the transfer of basic science and research information from the Federal laboratories to the private sector. This bill also makes important and necessary changes to the Fastener Quality Act.

These changes are of great importance to my constituents who are employed in the fastener industry. One of the fastest growing and best-run companies in the United States is based in Winona, Minnesota. The Fasten all Company is one of the dominant forces in the fastener industry.

Interestingly, Mr. Speaker, they would probably benefit, or probably do benefit, from some of the rules and regulations currently enacted, but they have told me that whether they benefit or not, it actually, in the long run, is bad for business and industry.

In 1990, the 101st Congress enacted the Fastener Quality act to answer concerns that counterfeit and substandard fasteners posed a threat to our national defense and our public safety. In most cases, counterfeit and substandard fasteners are two separate problems.

While well-meaning in nature, the original Fastener Quality Act required that fasteners be tested, inspected, and certified by accredited laboratories before being distributed to the market. Fastener manufacturers were required to register their fastener headmarkings with the Patent and Trademark Office and keep certification of performance and a copy of the test report on file. These requirements are typical of unnecessary regulations which previous Congresses have dictated.

Today, we would be acting on the recommendations which have been made by the Fastener Advisory Committee, amending the Fastener Quality Act. The Fastener Advisory Committee, created by Congress, determined that the Fastener Quality Act will have an unintended detrimental impact on business. The Fastener Advisory committee reported that without these recommended changes, the cumulative burden of cost on the fastener industry could be close to $1 billion for absolute compliance to the Fastener Quality Act.

The Committee has adopted recommendations in this legislation for amending the Fastener Quality Act that were submitted in March of 1992, and then again in February of 1995, to the Congress by the Fastener Advisory Committee.

[TIME: 1815]

Such recommendations were the result of nine public meetings by the Fastener Advisory Committee involving more than 2,000 pages of transcript documenting the need for the amendments. Subsequent to the recommendations to Congress, the National Institute of Standards and Technology [NIST] published proposed implementing regulations for public comment in August 1992. More than 300 letters were received from the

public. Over 70 percent of the letters supported the recommendations of the Fastener Advisory Committee for amending the act.

I urge all members to support this important legislation.

Mrs. MORELLA. Mr. Speaker, will the gentleman yield?

Mr. GUTKNECHT. I yield to the gentlewoman from Maryland.

Mrs. MORELLA. Mr. Speaker, the gentleman is correct regarding the great extent we have undertaken to work out these amendments with the fastener industry.

We listened to the Fastener Advisory Committee, its Fastener Public Law Task Force, and other representatives from the manufacturing, importing, and distribution sectors of the United States fastener industry in crafting these amendments to the Fastener Quality Act.

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We listened to the Fastener Advisory Committee, its Fastener Public Law Task Force, and other representatives from the manufacturing, importing, and distribution sectors of the United States fastener industry in crafting these amendments to the Fastener Quality Act.

The task force represents 85 percent of all United States companies and their suppliers involved in the manufacture, distribution, and importation of fasteners and over 100,000 employees in all 50 States.

The section focuses mainly on mill heat

certification, mixing of like-certified fasteners, and sale of fasteners with minor nonconformances. The act will maintain safety, reduce the unnecessary burdens on industry, and ensure proper enforcement of the Fastener Quality Act.

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certification, mixing of like-certified fasteners, and sale of fasteners with minor nonconformances. The act will maintain safety, reduce the unnecessary burdens on industry, and ensure proper enforcement of the Fastener Quality Act.

In addition to the fastener provisions in the bill, I believe it is important to note the other major provisions in the act. These include some very important administrative and management changes to the National Institute of Standards and Technology (NIST), which include making permanent the NIST Personnel Demonstration Project.

This project has helped NIST recruit and retain the best and the brightest scientists to meet its scientific research and measurement standards mission.

Also, included in the act are provisions affecting the Federal involvement in the use of standards and its development. Standards play a crucial role in all facets of daily life and in the ability of the Nation to compete in the global marketplace.

The United States, unlike the federalized standards system of most other countries, relies heavily on a decentralized, private sector-based, voluntary consensus standards system.

This unique consensus-based voluntary system has served us well for over a century and has contributed significantly to United States competitiveness, health, public welfare, and safety.

Playing an important role in maintaining a future competitive edge is the ability to develop standards which match the speed of the rapidly changing technology of the marketplace.

The key challenge is to update domestic standards activities, in light of increased internationalization of commerce, and to reduce duplication and waste by effectively integrating the Federal Government and private sector resources in the voluntary consensus standards system, while protecting its industry-driven nature and the public good.

Better coordination of Federal standards activities is clearly crucial to this effort. These issues were raised by

the National Research Council (NRC) in its March 1995, report entitled, `Standards, Conformity Assessment, and Trade in the 21st Century.'

We have adopted some of the recommendations in the NRC report clarifying NIST's lead role in the implementation of a government-wide policy of phasing out the use of federally-developed standards, wherever possible, in favor of standards developed by private sector, consensus standards organizations. We also adopted the recommendation to codify the present requirements of OMB Circular A-119, which requires agencies, through OMB, to report annually to Congress on the reasons for deviating from voluntary consensus standards, when the head of the agency deems that prospective consensus standards are not appropriate to the agency needs.

Mr. Speaker, I thank the gentleman for yielding so that I could put into the **Record** and explain the benefits of the statements that he made with regard to standards.

Mr. Speaker, I reserve the balance of my time.

[Page: H14333]

Mr. TANNER. Mr. Speaker, I yield such time as he may consume to the gentleman from New Mexico [Mr. **Richardson**].

(Mr. RICHARDSON asked and was given permission to revise and extend his remarks.)

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PUBLIC BILLS AND RESOLUTIONS (House of Representatives - August 04, 1995)

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. KLECZKA (for himself and Mr. **Herger**):

H.R. 2193. A bill to amend the Internal Revenue Code of 1986 with respect to the eligibility of veterans for mortgage revenue bond financing, and for other purposes; to the Committee on Ways and Means.

By Mr. DUNCAN:

H.R. 2194. A bill to provide for cost savings in the Medicare Program through cost-effective coverage of positron emission tomography [PET]; to the Committee on Ways and Means, and in addition to the Committee on Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. ROBERTS (for himself, Mr. **Barrett** of Nebraska, Mr. **Boehner,** Mr. **Hostettler,** and Mr. **Smith** of Michigan):

H.R. 2195. A bill to establish limits on Commodity Credit Corporation farm and export expenditures for the 1996 through 2002 crop years, to authorize the use of market transition contracts to support farming certainty and flexibility and ensure continued compliance with farm conservation compliance plans and wetland protection, to make marketing assistance loans available for certain crops, to establish a commission to examine the future of production agriculture, and for other purposes; to the Committee on Agriculture.

By Mrs. MORELLA (for herself, Mr. **Walker,** Mr. **Brown** of California, and Mr. **Tanner**):

H.R. **2196** . A bill to amend the Stevenson-Wydler Technology Innovation Act of 1980 with respect to inventions made under cooperative research and development agreements, and for other purposes; to the Committee on Science.

By Mr. ALLARD (for himself, Mr. **Knollenberg,** and Mr. **Ensign**):

H.R. 2197. A bill to amend the Congressional Budget Act of 1974 to establish a point of order against certain continuing resolutions; to the Committee on Rules.

By Mr. BROWNBACK (for himself, Mrs. **Myrick,** Mr. **Gutknecht,** Mr. **Largent,** Mr. **Armey,** Mr. **DeLay,** Mr. **Boehner,** Mr. **Roberts,** Mr. **Walker,** Mr. **Kasich,** Mr. **Bliley,** Mr. **Solomon,** Mr. **Saxton,** Mr. **Dreier,** Mr. **Dornan,** Mr. **Rohrabacher,** Mr. **Miller** of Florida, Mr. **Hoekstra,** Mr. **Shadegg,** Mr. **Scarborough,** Mr. **Foley,** Mr. **Souder,** Mr. **Tiahrt,** Mr. **Chrysler,** Mr. **Christensen,** Mr. **Cooley,** Mrs. **Smith** of Washington, Mr. **Tate,** Mr. **Smith** of Michigan, Mr. **Hefley,** Mr. **Hastings** of Washington, Mr **Nussle,** Mr. **Inglis** of South Carolina, Mr. **Norwood,** Mr. **Stockman,** Mrs. **Seastrand,** Mr. **Talent,** Mr. **Sanford,** Mr. **Salmon,** Mr. **Bono,** Mrs. **Chenoweth,** Mr. **McIntosh,** Mr. **Hostettler,** Mr. **Funderburk,** Mr. **Coburn,** Mr. **Graham,** Mr. **Hilleary,** Mr. **Hutchinson,** Mr. **Bass,** Mr. **Cunningham,** Mr. **Radanovich,** Mr. **Parker,** Mr. **Doolittle,** Mr. **Herger,** Mr. **Kolbe,** Mr. **White,** and Mr. **Hayworth**):

H.R. 2198.

NATIONAL TECHNOLOGY TRANSFER AND ADVANCEMENT ACT OF 1995 (House of Representatives - December 12, 1995)

Mr. TANNER. Mr. Speaker, I yield such time as he may consume to the gentleman from New Mexico [Mr. **Richardson**].

(Mr. RICHARDSON asked and was given permission to revise and extend his remarks.)

Mr. RICHARDSON. Mr. Speaker, this is a good bill for many reasons. It will create more jobs, it will provide incentives for important scientific inventions, and it is going to make it easier to give or loan equipment to our schools, Federal equipment.

But it is also a bill that is important in another very important technological way, and that is for stimulating commercialization of the research being done in our national laboratories. I represent one of them, Los Alamos National Laboratory, and it is going to benefit enormously from this legislation.

What this bill also does, it extends the Federal charter and set-aside for the Federal Laboratory Consortium for Technology Transfer. This charter was created through the hard work of Dr. Eugene Stark at the Los Alamos Laboratory.

The set-aside has provided very stable annual funding to the consortium which has permitted technology transfer officers of the various laboratories to work together. The Federal Laboratory Consortium members are linked together electronically, which enables them to help businesses find out what other Federal laboratories have expertise in specific areas.

So my colleagues know, what we are trying to do is get the labs more into economic competitiveness, into commercialization, so that their science can be used commercially for the best economic interests of the country. For example, if an agriculturally oriented business in New Mexico or Tennessee went to the technology transfer officers at Los Alamos with a problem, Los Alamos would be able to find out if any of the laboratories in the Departments of Agriculture or Interior could have expertise that is useful to that company.

The bill also gives far better incentives to Federal inventors, who are an imperative necessity to our national security. Currently, inventors receive only 15 percent of the royalty stream from their inventions, meaning that most inventions have produced less than $2,000 per year. By changing the calculation so that agencies pay inventors the first $2,000 of the royalties receive by the agency for the inventions, as well as 15 percent of the royalties above that amount, the bill provides incentives that these employees can use and give them more equitable compensation.

Finally, this bill clarifies that a Federal laboratory, agency, or department may give, loan, or lease excess scientific equipment to public and private schools and nonprofit organizations without regard to Federal property disposal laws.

Therefore, if for instance Los Alamos or Sandia or any of our national labs wanted to donate unused equipment to a university, it would not have to go through the bureaucratic redtape that is now required. Some labs would rather store their unwanted equipment rather than going through the hassle of GSA disposal.

This is a good bill, especially a good bill to all of us who have Federal laboratories in our districts, and that is about 14 States around the country and approximately 130 Members of Congress have lab components in their districts. It advocates technology transfer, it creates incentives for Federal inventors, and it makes it easier to donate equipment to needy schools.

I want to commend the author of the bill, the gentleman from Tennessee [Mr. **Tanner**], I want to commend the gentlewoman from Maryland [Mrs. **Morella**], and I see the fingerprints of the gentleman from California [Mr. **Brown**], the former Science chairman, all over this bill.

Mrs. MORELLA. Mr. Speaker, I include in the **Record** a letter dated December 12, 1995 to the gentleman from Pennsylvania [Mr. **Walker**], the chairman of the Committee on Science, from the administration, Ron Brown, indicating the administration's support of the Fastener Quality Act as it is contained in H.R. **2196** .

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The Secretary of Commerce,
Washington, DC, December 12, 1995.

Hon. Robert S. Walker,
Chairman, Committee on Science,
House of Representatives, Washington, DC.

Dear Mr. Chairman: Thank you for your recent letter seeking the Administration's position on the amendments to Public Law No. 101-592, the Fastener Quality Act, contained in H.R. **2196** , The National Technology Transfer and Advancement At of 1995. The Administration supports the amendments to the Fastener Quality Act included in H.R. **2196** .

Again, thank you for your letter. Please let me know if you have any additional questions.

Sincerely,
Ronald H. Brown.

Mr. Speaker, I reserve the balance of my time.

Mr. TANNER. Mr. Speaker, I yield such time as he may consume to the gentleman from California [Mr. **Brown**].

(Mr. BROWN of California asked and was given permission to revise and extend his remarks.)

Mr. BROWN of California. I thank the gentleman for yielding me this time. I would like to engage in a colloquy with the Congresswoman from Maryland [Mrs. **Morella**]. It will cover some of the subjects she has already spoken eloquently about.

There has been concern expressed in parts of the executive branch regarding section 12(d) of this bill which is our committee's codification of OMB Circular A-119 which the gentlewoman has referred to. I would like to be reassured that the Congresswoman's understanding is consistent with my understanding of the scope of Section 12(d).

First, the term `voluntary, private sector, consensus standards bodies' is used throughout the section but is not defined. I assume that the voluntary consensus standards bodies referred to in this section are our nation's standards development organizations such as the American Society for Testing and Materials, the American Society of Mechanical Engineers, the American Petroleum Institute, and the Society of Automotive Engineers and the umbrella organization, the American National Standards Institute.

[Page: H14334]

Mrs. MORELLA. Mr. Speaker, if the gentleman would yield, he is correct. We used voluntary consensus standards in the same manner that it would be used in the engineering and standards communities when they talk about technical, mechanical, or engineering standards. The private sector consensus standards bodies

covered by the act are engineering societies and trade associations as well as organizations whose primary purpose is development or promotion of standards. The standards they develop are the common language of measurement, used to promote interoperability and ease of communications in commerce. We meant to cover only those standards which are developed through an open process in which all parties and experts have ample opportunity to participate in developing the consensus embodied in that standard. Our use of the term `private sector' is meant to indicate that these standards are developed by umbrella organizations located in the private sector rather than to preclude government involvement in standards development. In fact, it is my hope that this section will help convince the Federal Government to participate more fully in these organizations' standards developing activities to increase the likelihood that the standards can meet public sector as well as private sector needs.

Mr. BROWN of California. I would assume from your comments that you would expect a rule of reason to prevail in the implementation of this section and that new bureaucratic procedures would be inconsistent with the intent of this section.

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Mrs. MORELLA. If the gentleman would yield further, that was our intent in beginning the section with the words `To the extent practicable'. For instance, we would expect Government procurements of off-the-shelf commercial products or commodities to be exempted by regulation from any review under the act. We also do not intend through this section to limit the right of the Government to write specifications for what it needs to purchase. Our focus instead is on making sure the Federal Government does not reinvent the wheel. We are merely asking Federal agencies to make all reasonable efforts to use voluntary, private sector, consensus standards unless there is a significant reason not to do so when developing regulations or describing systems, equipment, components, commodities, and other items for procurement. We expect Government specifications

to use the private sector's standards language rather than unique government standards whenever practicable to do so. However, as under OMB Circular A-119, agencies would still have broad discretion to decline to use a voluntary standard if the agency formally determined that the standard was inadequate for government, did not meet statutory criteria, or was otherwise inappropriate.

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Mr. BROWN of California. I would assume from your comments that you would expect a rule of reason to prevail in the implementation of this section and that new bureaucratic procedures would be inconsistent with the intent of this section.

Mrs. MORELLA. If the gentleman would yield further, that was our intent in beginning the section with the words `To the extent practicable'. For instance, we would expect Government procurements of off-the-shelf commercial products or commodities to be exempted by regulation from any review under the act. We also do not intend through this section to limit the right of the Government to write specifications for what it needs to purchase. Our focus instead is on making sure the Federal Government does not reinvent the wheel. We are merely asking Federal agencies to make all reasonable efforts to use voluntary, private sector, consensus standards unless there is a significant reason not to do so when developing regulations or describing systems, equipment, components, commodities, and other items for procurement. We expect Government specifications to use the private sector's standards language rather than unique government standards whenever practicable to do so. However, as under OMB Circular A-119, agencies would still have broad discretion to decline to use a voluntary standard if the agency formally determined that the standard was inadequate for government, did not meet statutory criteria, or was otherwise inappropriate.

Mr. BROWN of California. I thank the gentlewoman for her clarification. I agree with the gentlewoman and thank her for her explanations. I hope that they will assist in the interpretation of the meaning of the language of the bill.

[TIME: 1830]

Mr. Speaker, with the permission of the gentleman from Tennessee, I would like to make a few concluding remarks with regard to my general support of the legislation.

I do rise in support of H.R. **2196** , the Technology Transfer and Advancement Act of 1995, a bill which does make significant incremental steps in the proper direction in Federal technology and laboratory policies. Previous speakers have indicated the importance of the Federal laboratories as a part of the Nation's scientific and technological infrastructure, and I would like to reinforce those statements in every way that I can.

I would like to also mention again, because the gentlewoman from Maryland has already mentioned it, that there is nothing in this bill more important than the provision which makes the personnel system at the National Institutes of Standards and Technology permanent. A decade has now passed since the Packard committee recommendations on civil service reform for scientists and engineers were presented to the Congress. This is a report worth dusting off and reading anew.

Then science committee chairman Don Fuqua pushed related legislation which resulted in a personnel experiment at NIST. For 8 years NIST has strived under a merit-based clone of progressive private sector personnel systems, and the results are obvious, they are impressive, and they are cheaper than the old way of doing business.

One of the lesser known and least controversial provisions of last year's competitive legislation was our attempt to make the NIST experimental personnel system its permanent one.

I am happy the committee has seen fit to report our provisions unchanged because it is exactly what NIST needs to continue to attract its fair share of the best and the brightest, and I want to particularly commend the chairwoman of this subcommittee for persevering in getting through the enactment of this very important piece

of our bills.

I am also pleased with the standards provisions in the bill, and I will abbreviate my remarks on that somewhat. But it will do a great deal in rationalizing the procurement of all Federal Government needs, particularly in the Defense Department.

The legislation also makes changes that will be

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The legislation also makes changes that will be

beneficial to NIST, to other Federal labs and to the Federal laboratory consortium, some which have been mentioned by both the gentlewoman from Maryland [Mrs. **Morella**] and the gentleman from New Mexico [Mr. **Richardson**].

I do have some reservations about the process really which led to the inclusion of the Fastener Quality Act amendments in this bill. I do believe that the Fastener Quality Act does need some improvements. This bill provides it, but I was not happy with the process with which this was done. I have criticized this before. I will not belabor it. We have brought this same language to the floor several times. It was defective each time because there was not a process of committee hearings and review which would have corrected some of the

problems.

I think, but I am still not sure, that all the problems have been corrected. I sincerely trust this is the case because I know the importance of having a good set of rules on the books to deal with this very important problem.

Having said this mild criticism, I want to make it clear the bill is well worth voting for in almost all respects, statutory proof that the two parties can work closely together on important legislation and, when they do so, as in the present case, the American people emerge the winners.

- Mr. Speaker, I rise in support of H.R. **2196** , the Technology Transfer and Advancement Act of 1995, a bill which makes significant incremental steps in the proper direction in Federal technology and laboratory policy.

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Mrs. MORELLA. Mr. Speaker, I yield myself such time as I may consume.

I have no one else who wishes to speak on this bill, but again I want to reiterate what the gentleman from California [Mr. **Brown**] said and the gentleman from Tennessee [Mr. **Tanner**] had said before in the fact that this is an excellent example of bipartisan working together in the best interests of our country and our national competitiveness.

I urge all of my colleagues to support this important bill to enhance our competitiveness.

- Mr. WALKER. Mr. Speaker, I commend the gentlelady from Maryland for her leadership in bringing H.R. **2196** , the National Technology Transfer and Advancement Act of 1995, to the floor.

- As chair of the Science Committee, I am proud of the committee's rich tradition of promoting technology transfer from our Federal laboratories. Beginning with the Stevenson-Wydler Technology Innovation Act of 1980, the Science Committee has originated legislation which has stimulated and increased the quality of technology in the United States.

- The Stevenson-Wydler Act required Federal laboratories to take an active role in technical cooperation and established technology transfer offices at all major Federal laboratories. The landmark Stevenson-Wydler Act legislation was expanded considerably by the Federal Technology Transfer Act of 1986, which allowed a government-owned, government-operated [GOGO] laboratory staffed by Federal employees to enter into a Cooperative Research and Development Agreement [CRADA] with industry, universities, and others. The National Competitiveness Technology Transfer Act of 1989 extended the CRADA authority to a government-owned, contractor-operated [GOCO] laboratory such as the Department of Energy laboratories.

- These acts have permitted the private sector to develop cooperative research and development agreements [CRADA] with our Federal laboratories, thereby providing them access to the expertise of the engineers, scientists, and facility resources of our national labs. In a CRADA, the laboratories can contribute people, facilities, equipment, and ideas, but not funding, while the private sector companies contribute people and funding.

- H.R. **2196** provides guidelines that simplify the negotiation of a CRADA--addressing a major concern of private sector companies--and, in the process, gives companies greater assurance they will share in the benefits of the research they fund.

- As a result, the act will reduce the time and effort required to develop a CRADA, reduce the uncertainty that can deter companies from working with the Government, and thus speed the transfer and commercialization of laboratory technology to the American public. The act is an important step toward making our Government's huge investment in science and technology--made primarily to carry out important Government missions--more useful to interested commercial companies and our economy.

- By rethinking and improving the method our Government conducts its business, without the need to invoke new spending authority, H.R. **2196** signals a new approach to government technology policy legislation.

- I am also very pleased that H.R. **2196** includes amendments to the Fastener Quality Act. These amendments are very important to the fastener industry and the need to include these changes to the current act is clear. When this committee marked up the Fastener Quality Act in 1991, I attached an amendment to form the Fastener Advisory Committee. This committee was to determine if 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, but unfortunately, were not successful. We had language pass the House and the Senate; however, the language died in conference.

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- Mr. OXLEY. Mr. Speaker, I rise to address the amendments to the Fastener Quality Act which are in H.R. **2196** .
- The Fastener Quality Act is the result of a 4-year-long study by the Oversight and Investigations Subcommittee of the Committee on Commerce. The statute requires testing and labeling procedures for certain grades of bolts and fasteners subject to high degrees of stress, such as in military and aerospace applications. The requirements of the Fastener Quality Act were designed to prevent the use of substandard bolts in applications where, if they were to fail, death or injury could occur.
- The Commerce Committee and the Science Committee have a long history of working together on this act. After the Commerce Committee Oversight and Investigations Subcommittee investigation, our committees worked together to secure passage of this legislation in the 101st Congress and the amendments to the Fastener Act contained in this legislation.
- Mr. Speaker, the amendments to the Fastener Quality Act included in this legislation are almost identical to those passed by the House in H.R. 2405 earlier this year. These amendments simply restore the original intent of the Fastener Quality Act. Additionally, they provide for notice and comment on the appropriate threshold standard to assess a significant alteration with respect to the electroplating of fasteners. The Committee on Commerce has no objection to these amendments and urges their adoption.

Mrs. MORELLA. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. TANNER. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentlewoman from Maryland [Mrs. **Morella**] that the House suspend the rules and pass the bill, H.R. **2196** , as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

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NATIONAL TECHNOLOGY TRANSFER AND ADVANCEMENT ACT OF 1995 (House of Representatives - December 12, 1995)

Mr. TANNER. Mr. Speaker, I yield such time as he may consume to the gentleman from New Mexico [Mr. **Richardson**].

(Mr. RICHARDSON asked and was given permission to revise and extend his remarks.)

Mr. RICHARDSON. Mr. Speaker, this is a good bill for many reasons. It will create more jobs, it will provide incentives for important scientific inventions, and it is going to make it easier to give or loan equipment to our schools, Federal equipment.

But it is also a bill that is important in another very important technological way, and that is for stimulating commercialization of the research being done in our national laboratories. I represent one of them, Los Alamos National Laboratory, and it is going to benefit enormously from this legislation.

What this bill also does, it extends the Federal charter and set-aside for the Federal Laboratory Consortium for Technology Transfer. This charter was created through the hard work of Dr. Eugene Stark at the Los Alamos Laboratory.

The set-aside has provided very stable annual funding to the consortium which has permitted technology transfer officers of the various laboratories to work together. The Federal Laboratory Consortium members are linked together electronically, which enables them to help businesses find out what other Federal laboratories have expertise in specific areas.

So my colleagues know, what we are trying to do is get the labs more into economic competitiveness, into commercialization, so that their science can be used commercially for the best economic interests of the country. For example, if an agriculturally oriented business in New Mexico or Tennessee went to the technology transfer officers at Los Alamos with a problem, Los Alamos would be able to find out if any of the laboratories in the Departments of Agriculture or Interior could have expertise that is useful to that company.

The bill also gives far better incentives to Federal inventors, who are an imperative necessity to our national security. Currently, inventors receive only 15 percent of the royalty stream from their inventions, meaning that most inventions have produced less than $2,000 per year. By changing the calculation so that agencies pay inventors the first $2,000 of the royalties receive by the agency for the inventions, as well as 15 percent of the royalties above that amount, the bill provides incentives that these employees can use and give them more equitable compensation.

Finally, this bill clarifies that a Federal laboratory, agency, or department may give, loan, or lease excess scientific equipment to public and private schools and nonprofit organizations without regard to Federal property disposal laws.

Therefore, if for instance Los Alamos or Sandia or any of our national labs wanted to donate unused equipment to a university, it would not have to go through the bureaucratic redtape that is now required. Some labs would rather store their unwanted equipment rather than going through the hassle of GSA disposal.

This is a good bill, especially a good bill to all of us who have Federal laboratories in our districts, and that is about 14 States around the country and approximately 130 Members of Congress have lab components in their districts. It advocates technology transfer, it creates incentives for Federal inventors, and it makes it easier to donate equipment to needy schools.

I want to commend the author of the bill, the gentleman from Tennessee [Mr. **Tanner**], I want to commend the gentlewoman from Maryland [Mrs. **Morella**], and I see the fingerprints of the gentleman from California [Mr. **Brown**], the former Science chairman, all over this bill.

Mrs. MORELLA. Mr. Speaker, I include in the **Record** a letter dated December 12, 1995 to the gentleman from Pennsylvania [Mr. **Walker**], the chairman of the Committee on Science, from the administration, Ron Brown, indicating the administration's support of the Fastener Quality Act as it is contained in H.R. **2196** .

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Mr. TANNER. Mr. Speaker, I yield such time as he may consume to the gentleman from California [Mr. **Brown**].

(Mr. BROWN of California asked and was given permission to revise and extend his remarks.)

Mr. BROWN of California. I thank the gentleman for yielding me this time. I would like to engage in a colloquy with the Congresswoman from Maryland [Mrs. **Morella**]. It will cover some of the subjects she has already spoken eloquently about.

There has been concern expressed in parts of the executive branch regarding section 12(d) of this bill which is our committee's codification of OMB Circular A-119 which the gentlewoman has referred to. I would like to be reassured that the Congresswoman's understanding is consistent with my understanding of the scope of Section 12(d).

First, the term `voluntary, private sector, consensus standards bodies' is used throughout the section but is not defined. I assume that the voluntary consensus standards bodies referred to in this section are our nation's standards development organizations such as the American Society for Testing and Materials, the American Society of Mechanical Engineers, the American Petroleum Institute, and the Society of Automotive Engineers and the umbrella organization, the American National Standards Institute.

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Mrs. MORELLA. Mr. Speaker, if the gentleman would yield, he is correct. We used voluntary consensus standards in the same manner that it would be used in the engineering and standards communities when they talk about technical, mechanical, or engineering standards. The private sector consensus standards bodies covered by the act are engineering societies and trade associations as well as organizations whose primary purpose is development or promotion of standards. The standards they develop are the common language of measurement, used to promote interoperability and ease of communications in commerce. We meant to cover only those standards which are developed through an open process in which all parties and experts have ample opportunity to participate in developing the consensus embodied in that standard. Our use of the term `private sector' is meant to indicate that these standards are developed by umbrella organizations located in the private sector rather than to preclude government involvement in standards development. In fact, it is my hope that this section will help convince the Federal Government to participate more fully in these organizations' standards developing activities to increase the likelihood that the standards can meet public sector as well as private sector needs.

Mr. BROWN of California. I would assume from your comments that you would expect a rule of reason to prevail in the implementation of this section and that new bureaucratic procedures would be inconsistent with the intent of this section.

Mrs. MORELLA. If the gentleman would yield further, that was our intent in beginning the section with the words `To the extent practicable'. For instance, we would expect Government procurements of off-the-shelf commercial products or commodities to be exempted by regulation from any review under the act. We also do not intend through this section to limit the right of the Government to write specifications for what it needs to purchase. Our focus instead is on making sure the Federal Government does not reinvent the wheel. We are merely asking Federal agencies to make all reasonable efforts to use voluntary, private sector, consensus standards unless there is a significant reason not to do so when developing regulations or describing systems, equipment, components, commodities, and other items for procurement. We expect Government specifications

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H.R.3590

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HR 3590 IH

103d CONGRESS

1st Session

H. R. 3590

To amend the Stevenson-Wydler Technology Innovation Act of 1980.

IN THE HOUSE OF REPRESENTATIVES

November 20, 1993

Mrs. MORELLA introduced the following bill; which was referred jointly to the Committees on Science, Space, and Technology and the Judiciary

A BILL

To amend the Stevenson-Wydler Technology Innovation Act of 1980.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the `Technology Transfer Improvements Act of 1993'.

SEC. 2. FINDINGS.

The Congress finds and declares the following:

(1) The commercialization of technology and industrial innovation are central to the economic, environmental, and social well-being of citizens of the United States.

(2) The Government can help United States business to speed the development of new products and processes by entering into Cooperative Research and Development Agreements which make available the assistance of the Federal laboratories to the private sector, but the commercialization of technology and industrial innovation in the United States depends largely upon actions by business.

(3) Government action to claim a right of ownership to any invention or other intellectual property developed under a Cooperative Research and Development Agreement can inhibit the establishment

of such agreements with business and can prevent the commercialization of technology and industrial innovation by business.

(4) The commercialization of technology and industrial innovation in the United States will be enhanced if the ownership of any invention or other intellectual property developed under a Cooperative Research and Development Agreement belongs to a company or companies incorporated in the United States.

SEC. 3. TITLE TO INTELLECTUAL PROPERTY ARISING FROM COOPERATIVE RESEARCH AND DEVELOPMENT AGREEMENTS.

Section 12 of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3710a) is amended as follows:

(1) In the text of subsection (b) immediately preceding paragraph (1), strike `Government-operated Federal laboratory, and to the extent provided in an agency-approved joint work statement, a Government-owned contractor-operated laboratory, may' and insert `Federal laboratory shall ensure that title to any intellectual property arising from the agreement, except intellectual property developed in whole by a laboratory employee, is assigned to the collaborating party or parties to the agreement in exchange for reasonable compensation to the laboratory, and may'.

(2) In subsection (b)(2), strike `or in part'.

(3) Amend subsection (b)(3) to read as follows:

`(3) retain a nonexclusive, nontransferable, irrevocable, paid-up license from the collaborating party or parties for any intellectual property arising from the agreement, and have such license practiced throughout the world by or on behalf of the Government, but shall not, in the exercise of such license, publicly disclose proprietary information related to the license;'.

(4) Amend subsection (b)(4) to read as follows:

`(4) retain the right, in accordance with procedures provided in regulations promulgated under this section, to require a collaborating party to grant to a responsible applicant or applicants a nonexclusive, partially exclusive, or exclusive license to use the subject intellectual property in any field of use, on terms that are reasonable under the circumstances, or if the collaborating party fails to grant such a license, to grant the license itself if the laboratory finds that--

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(5) In subsection (d)(2), strike `and' at the end;

(6) In subsection (d)(3), strike the period at the end and insert `; and'.

(7) At the end of subsection (d), insert the following new paragraph:

`(4) the term `intellectual property rights' means--

`(A) in the case of government-owned, government-operated Federal laboratories, patents; and

`(B) in the case of government-owned, contractor-operated Federal laboratories, patents, copyrights, and computer chip mask work registrations.'.

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SEC. 4. DISTRIBUTION OF INCOME FROM INTELLECTUAL PROPERTY RECEIVED BY FEDERAL LABORATORIES.

Section 14 of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3710c) is amended to read as follows:

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`SEC. 14. DISTRIBUTION OF INCOME FROM INTELLECTUAL PROPERTY RECEIVED BY FEDERAL AGENCIES OR LABORATORIES.

`(a) IN GENERAL-

`(1) Except as provided in paragraphs (2) and (4), any income received by a Federal agency or laboratory from the licensing or assignment of intellectual property under agreements entered into by Federal laboratories under section 12, and intellectual property of Federal agencies or laboratories licensed under section 207 of title 35, United States Code, or under any other provision of law, shall be retained by the agency or laboratory and shall be disposed of as follows:

`(A)(i) The head of the agency or laboratory or his designee shall pay to the laboratory employee or employees who have assigned their rights in the intellectual property to the United States, to the laboratory operator, or to a collaborating party or parties to a research agreement an amount equal to the sum of--

`(I) the first $10,000 received by the agency or laboratory from the intellectual property; and

`(II) 15 percent of any income received by the agency or laboratory from the intellectual property in excess of the sum of the amount paid pursuant to item (I) and the value of unreimbursed research and development resources provided by the laboratory under the terms of the agreement.

`(ii) An agency or laboratory may provide appropriate incentives from royalties to laboratory employees who contribute substantially to the technical development of licensed or assigned intellectual property between the time that the intellectual property rights are legally asserted and the time of the licensing or assigning of the intellectual property rights.

`(iii) The agency or laboratory shall retain the income received from intellectual property until the agency or laboratory makes payments to laboratory employees under clause (i) or (ii).

`(B) The balance of the income shall be transferred to the agency's laboratories, with the majority share of the royalties or other income going to the laboratory where the intellectual property originated, and the income so transferred to any such laboratory may be used or obligated by that laboratory during the fiscal year in which it is received or during the succeeding fiscal year--

`(i) for payment of not more than 15 percent of such income for expenses incidental to the administration and licensing of intellectual property by the agency or laboratory with respect to intellectual property which originated at that laboratory, including the fees or other costs for the services of other agencies, persons, or organizations for intellectual property management and licensing services;

`(ii) to reward scientific, engineering, and technical employees of the laboratory, including developers of sensitive or classified technology, regardless of whether the technology has commercial applications;

`(iii) to further scientific exchange among the laboratories of the agency; or

`(iv) for education and training of employees consistent with the research and development mission and objectives of the agency or laboratory, and for other activities that increase the potential for transfer of the technology of the laboratories of the agency.

All income retained by the agency or laboratory after payments have been made pursuant to subparagraphs (A) and (B) that is unobligated and unexpended at the end of the fiscal year succeeding the fiscal year in which the income was received shall be paid into the United States Treasury.

`(2) If, after payments to employees under paragraph (1), the intellectual property income received by an agency and its laboratories in any fiscal year exceeds 5 percent of the budget of the laboratories of the agency for that year, 75 percent of such excess shall be paid to the United States Treasury and the remaining 25 percent may be used or obligated for the purposes described in clauses (i) through (iv) of paragraph (1)(B) during that fiscal year or the succeeding fiscal year.

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SEC. 5. AMENDMENT TO BAYH-DOLE ACT.

Section 210(e) of title 35, United States Code, is amended by inserting `and the Technology Commercialization Act of 1993' after `Federal Technology Transfer Act of 1986'.