

News from Birch Bayh

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WASHINGTON, D.C. OCTOBER 5th -- Pulling together a series of measures he has introduced to strengthen and re-vitalize small and medium-sized businesses, Senator Birch Bayh (D.-Ind.) today joined in sponsoring the Small Business Innovation Act of 1979.

The bill incorporates two bills which Bayh had previously introduced as separate proposals: the University and Small Business Patent Prodedures Act and the Patent Law Amendments Act.

Bayh said, "Revising the present government patent policies is crucial if we are to have more small business involvement in the government's massive research and development efforts. The present policies covering ownership of inventions made under federally-supported research and development are a good example of the kinds of frustrations that the innovative small company constantly encounters from government, and they have stultified our technology and inventiveness.

"This has come as shock to us," said Bayh. "We have grown so used to being the economic, innovative wonder of the world that it comes as a rude awakening to realize that the United States now has one of the slowest productivity rates of any industrialized free nation, that the number of patents filed has been going steadily down since peaking in the early 1970's, that foreigners are now filing about 35% of the patents in the U.S. each year, and that the second highest burden on our economy right behind foreign oil is the importation of foreign manufactured goods."

The major provisions of the new legislation are as follows:

University and Small Business Patent Procedures -- This new patent policy will allow small businesses, universities, and non-profit organizations to retain patent rights to the inventions that they make under government contracting and will allow the funding agency to use the invention without paying any royalties. The bill also includes language that will prohibit any agency from automatically retaining a small business' "background rights" which might include privately held patents or information that the agencies can now require be made available to any future contractors engaged in similar research for the agency.

The Patent Law Amendments Act -- This benefits all patent holders by offering an inexpensive, quick avenue for determining the validity of an issued patent. The American Patent Law Association has estimated that it presently costs both parties to a patent validity suit over a quarter of a million dollars apiece, and a considerable amount of time, before any decision can be made in court on a patent's worth. Many independent inventors and small businesses simply cannot afford such costs and are easily "blackmailed" by larger competitors who can use their patents with little danger of a patent infringement suit to stop such unauthorized use. This revision in the patent law will allow the Patent Office to inexpensively re-examine most issued patents in order to determine their validity if it should be questioned.

The Small Business Innovation Act -- This should remove many of the barriers to full-scale participation by small businesses in government research efforts. The bill also helps the innovative small business by encouraging more investment in research through a revision in the tax code and by requiring all government regulations on the small business community before they are adopted.

"This is the kind of positive, concrete help that small businesses need and deserve," Bayh said. "It is time for Congress to act forcefully in this important area."

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