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United States Senate
COMMITTEE ON COMMERCE, SCIENCE,
AND TRANSPORTATION
WASHINGTON, D.C. 20510

February 5, 1980

Dear Colleague:

When the Senate takes up S. 414, a bill to establish a uniform Federal patent policy for small businesses and nonprofit organizations, we intend to offer an amendment extending this policy to all government contractors. S. 414 deals with an important issue that has eluded solution for nearly three decades. The legislation moves in the direction of providing greater incentives for private development and use of technologies developed under Federal research and development programs, but it does not go far enough.

Our amendment would allow all businesses to acquire title to their inventions made under Federal contracts while retaining the structure and essential provisions of S. 414. These provisions include a requirement for repayment to the government when inventions lead to commercially successful innovations, the government's right to "march-in" in cases where contractors fail to commercialize inventions in a reasonable time, and a preference for domestic exploitation of inventions developed with Federal assistance.

This amendment is needed to achieve the widest possible application of government-supported technology at a time of lagging innovation, stagnant productivity growth, and declining U.S. competitiveness in world markets. It is also needed to ensure that Federal civilian R&D programs contribute to the solution of our energy, transportation, health and other domestic problems. Witnesses in four days of hearings before the Commerce, Science, and Transportation Committee strongly endorsed the principle of allowing exclusive use of government-supported inventions without discriminating among government contractors.

Small businesses, universities, and nonprofit institutions are important to industrial innovation, but so are other firms which together have a much larger share of Federal R&D contracts and a greater impact on the nation's ability to produce and compete.

The issue is not one of large versus small business. Under present Defense Department Policy, large defense contractors are already given unrestricted title in approximately 70% of all DOD contracts, with no

requirement that they return a portion of their profits to the Federal Treasury. We propose merely to extend title to other contractors of all sizes, primarily in civilian fields, and to ensure that all are subject to the same requirements as small businesses and universities.

We urge you to support our amendment and S. 414 in order to increase the return on the public's investment in research and development.

Sincerely,

HOWARD W. CANNON
Chairman

BOB PACKWOOD
Ranking Minority Member

ADLAI E. STEVENSON
Chairman
Subcommittee on Science,
Technology, and Space

HARRISON SCHMITT
Ranking Minority Member
Subcommittee on Science,
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