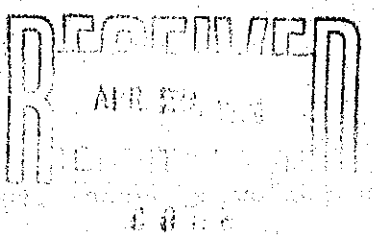
AMERICAN COUNCIL ON EDUCATION
ONE DUPONT CIRCLE
WASHINGTON, D. C. 20036

DIVISION OF GOVERNMENTAL RELATIONS
(202) 833-4736

April 28, 1980

The Honorable Robert W. Kastenmeier
Chairman, Subcommittee on the Courts,
Civil Liberties & the Administration of Justice
Committee on the Judiciary
U.S. House of Representatives
Washington, D.C. 20515



Dear Mr. Chairman:

On behalf of the American Council on Education, representing over 1,600 colleges, universities, associations in higher education, and the associations noted hereunder, I am writing to urge your subcommittee to expiditiously markup H.R. 2414, the University and Small Business Patent Procedures Act.

H.R. 2414 would establish a uniform, government-wide patent procedure for small businesses and nonprofit organizations performing government-funded research and development by granting title to inventions arising from government-supported research unless the contracting agency could justify holding title to the invention. We believe the bill represents a positive step toward a federal patent policy which will lessen administrative burdens on the agencies as well as on universities and small businesses.

Generating inventions is almost never the main objective of research conducted by universities; rather, an invention is generally an incidental by-product of the research university, largely attributable to serendipity, to the personal creativity of the investigator backed by his years of professional training and experience, and to the scholarly environmental and research resources provided by the university.

Educational institutions are, of course, not organized to manufacture, produce, or market a patentable invention. Accordingly, if university-generated inventions are to be used, such institutions must interest those in the industrial world who have the commercial capability for invention and market development, which the university lacks. University-based inventions tend to be in the early stages of development and therefore require substantial capital in order to prepare for market. If universities cannot furnish an exclusive license to developers for a limited period and thereby secure the investment of necessary capital, inventions are less likely to be developed to the point of marketability, and thus the public is less likely to receive the benefits from such inventions. H.R. 2414 provides the essential degree of exclusivity, that will provide private sources with sufficient incentive to develop a product or process.