

HIGHER EDUCATION, BUSINESS SUPPORT PATENT POLICY CHANCE

Higher education groups and businessmen this week reiterated their support of a change in patent policies to allow federal contractors to more easily retain title to inventions.

A proposal by Sen. Harrison Schmitt, R-N.M., for a "flexible governmentwide policy" for patents on the results of federally funded research and development will encourage commercialization and eliminate problems created by present policy, the spokesmen said at a July 23 hearing of the Senate Subcommittee on Science, Technology and Space.

"At best the government patent policy has been non-uniform and at worst has been a non-policy, with the result that 20 or more policies are developed, generally on an agency-by-agency basis," said Howard Bremer, speaking for the American Council Education, National Association of College and University Business Officers and the Society of University Patent Administrators.

Bremer said Schmitt's bill, S. 1215, would help "curb both the extravagance of government and its errors of administration in addressing technological innovation," and the university community supports it.

S. 1215 would allow contractors title to inventions except if the contractor is serving a government-owned research facility, the work under contract is classified, the principal purpose of the contract is development required by federal regulations or "exceptional circumstances" force the government to retain patents to assure public health and safety.

The Commerce Department would administer the governmentwide policy.

University Programs The government also would retain title to inventions if a contracting university does not have a technology transfer program that meets a definition laid down in the bill. Bremer objected

(more)

PRODUCTIVITY STUDY ENCOURAGES R&D

The federal government should expand support of research and development and disseminate research findings to help stimulate growth in U.S. industrial productivity, according to a study released yesterday by the Council on Wage and Price Stability.

The council also suggested the government provide investment incentives to spur business interest in productivity and reform economic and social regulations "to make them more cost effective.

Since 1960, productivity has grown less in the U.S. than in any other major developed country, and the slowdown has increased in the past decade, the council said in a report to Congress.

Leveling Off The council said many analysts feel the leveling off of research and development expenditures has slowed productivity growth. But "this is more difficult to document" than other factors because most of the decline in R&D funding appears to be concentrated in military-related research which contributes little to productivity, the council added.

Although declining federal support for R&D cannot be solely responsible for the lowering productivity, the council said, "it could be another factor in the gradual decline in productivity growth."

Growth or decline in productivity is a "major element of the inflation process as well as the principal vehicle for improving living standards," the council said in its report.

"A reversal of our productivity slowdown will not be easy to accomplish," the council said. "While some of the causes for the slowdown can be identified, no one has been able to explain fully the recent decline." --AC

HIGHER EDUCATION, BUSINESS SUPPORT PATENT POLICY CHANGE (Cont.)

to the definition because it says a qualifying program "includes" an established patent policy and administrator, agreements with employees to turn over rights to inventions developed under government contract, procedures for evaluating and disclosing patentable inventions and "active and effective programs for their licensing and marketing."

The word "includes" makes the program requirements "open-ended" and leaves the door open for interpretation that could "easily frustrate the desire for uniformity," said Bremer, patent counsel for the Wisconsin Alumni Research Foundation.

Patents Board Business representatives supported the Schmitt bill but suggested changes in how the patent policy would be carried out. Willard Marcy, Research Corporation vice president, said the Commerce Department should not be the sole administrator and recommended instead a "new quasi-governmental and semi-autonomous organization independent of existing agencies."

Patents attorney R. Tenney Johnson suggested the creation of a patents board to arbitrate differences between contractors and federal agencies and with "march-in" authority to claim title to inventions in some circumstances, such as when marketing is not proceeding fast enough.

Administration officials at the hearing did not endorse S. 1215 but offered support for the concept of a change in patents policy. The Department of Energy has "the best patent policy Congress ever produced" but DOE is looking for "a less burdensome kind of policy" such as that outlined in S. 1215, said department assistant general James Denny, DOE assistant general counsel.

The National Aeronautics and Space Administration is "not convinced our policy is cost-effective" because recent figures show low commercialization rates when inventions are left to be developed by the government, said NASA Deputy General Counsel Gerald Mossinghoff. --AKF

NIH GRANT, LIVING EXPENSES NOT INCOME, IRS SAYS

The Internal Revenue Service has ruled that a \$10,000 scholarship and a \$3,000 payment for living expenses from the National Institutes of Health to a scholar at a college cannot be counted as income for tax purposes.

However, an additional \$2,000 stipend paid by the university to the scholar to help offset the cost of living in the area of the school is subject to tax, the IRS said.

The one-year grant to the scholar by NIH and the living expenses payment are excludable from gross income for tax purposes because they are derived from funds appropriated by Congress, IRS said. The IRS based its ruling on a number of factors, including a section of the Internal Revenue Code that specifies which scholarships and fellowships are taxable income.

Compensation If payments under the grant can be construed in any way as compensation similar to an employee paycheck, the grant would be taxable, according to an IRS official.

IRS issued the ruling in April but made it public this week. The IRS would not disclose the name of the university or other details of the case. --AC