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## U.S. HOUSE OF REPRESENTATIVES

### SUBCOMMITTEE ON ECONOMIC STABILIZATION OF THE COMMITTEE ON BANKING, CURRENCY AND HOUSING NINETY-FOURTH CONGRESS

WASHINGTON, D.C. 20515

July 9, 1976

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Dear Colleague:

The H.R. 12112 loan guarantee program for the development of synthetic fuels currently contains a controversial patent provision, section 18(r). This section stipulates that any invention which arises in the course of an ERDA loan guaranteed program becomes the property of the U.S. government, subject to the possibility of waiver, even where there is no default by the borrower.

Such a provision is unjustifiable and I therefore urge amendment of section 18(r) to read as follows:

"(r) Inventions made or conceived in the course of or under a guarantee authorized by this section shall not be subject to the title and waiver requirements and conditions of section 9 of this Act except in the event of a default as defined under subsection (g) of this section." (Note: Proposed changes are underscored.)

The change would vest title to patent rights in the program participant rather than in the U.S. government. Only in the event of default would ownership flow to the government.

The current provision is undesirable for two reasons. First, by depriving developers of property interests in inventions produced at their own expense as a result of personal work, potential participants will be discouraged from entering into the program. The public interest

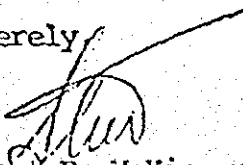
in the development of synfuels will thus be hurt. It is crucial to the success of the program that we not drive away prospective developers by such an unduly harsh patent provision.

Second, it is unprecedented and inequitable for the government to demand rights to inventions under a program for which the government has paid nothing. A loan guarantee mechanism requires no capital outlay on the part of the U.S. government. Traditional private retention of patent rights should not be disrupted where the government has supplied no resources and has no legitimate claim to rights in the inventions.

The proposed amendment recommends itself as a viable way to achieve a balance between legitimate private and governmental interests. Patent rights would remain with the private developer unless default should occur. Once the government is required to contribute capital directly to a synthetic fuels project under a default arrangement, then it would be entitled to the patent rights. Thus, respective private and governmental interests are preserved. But more importantly, the public interest is also protected by the amendment for only by its passage will H.R. 12112 be able to be an effective program for the development of the synthetic fuels so crucially needed by this country.

I therefore urge you to lend your support to this amendment when H.R. 12112 is heard on the Floor of the House. If you are interested in co-sponsoring the amendment, please contact either Larry Feldman or Debra Belaga at 225-7620 prior to July 19, 1976.

Sincerely,



Stewart B. McKinney, M.C.