

MEMORANDUM

TO: Senator
FROM: Joe
RE: Senator Schmitt's request to talk with you on Patents
DATE: September 19, 1979
COPIES: Kevin, Tom, Mary, Linda, Eve, Bob B., Jim B., Kathy, Ann M., Leg and Indiana office

Senator Schmitt has indicated that he would like to set up a meeting with you to discuss S. 414, ~~that~~ University and Small Business Patent Procedures Act.

JP
Senator Schmitt has introduced his own patent bill which broadens the coverage in your bill from universities and small businesses to all contractors. He is very sensitive to the aerospace industry which is composed of large businesses ~~that~~ would like to be covered under any patent policy revision. As you remember from our hearings, any attempt to broaden S. 414 will kill it (which is exactly what has happened to all of the previous attempts to revise the government's patent policy).

Sch

Schmitt will likely say that any attempt to encourage innovation must include large business as well as small and that besides politics there is no justification for excluding them. A reply is that since small businesses have been demonstrated to have been the most innovative segment of the economy a remedy is needed to raise their pathetic ~~share~~ of government research and development contracting from its present 3.4%. The present policies weigh much more heavily on the small businessman than they do on the big business because many times small companies are not able to raise private risk capital and really need to develop new products through government programs which are now avoided because of fear of losing patent rights. The big companies are sophisticated enough to negotiate favorable contract rights or they simply can walk away with little harm to themselves.

Schmitt might also ask if you would be willing to drop the pay back provision from the bill. ~~That~~ pay back provision is one of the keys that have made your bill so popular and serves to reassure the public that in the event that a blockbuster patent arises from government research and development the public money put into it will be repaid.

Schmitt wants to meet now because he knows that the Judiciary Committee will be marking up S. 414 in early October and that Senate passage looks favorable. Schmitt is a cosponsor of the bill himself.

I think that you should agree to meet with Senator Schmitt and indicate your willingness to address the problems of big business contractors in separate legislation (possibly in the Schmitt bill), but that your own bill is now so far down the line and has amassed so much support that it is not possible to substantively change it at this stage. You should assure Schmitt that you are sensitive to the needs of other contractors, and that this bill should be viewed as a step in the right direction rather than as an end product.

There are now 30 Senators on the bill as cosponsors and it looks like the bill should easily pass the Senate. The Small Business Administration has called S. 414 the most important small business bill before the Congress and you have received a tremendous amount of support for your efforts in this area. I do not think that Senator Schmitt wants to press you very hard on these points, but would like to discuss your personal philosophy to see if you really believe them or are just bending to the political winds.