

April 5, 2021

Secretary Gina Raimondo

U.S. Department of Commerce
1401 Constitution Avenue NW
Washington, DC 20230

James K. Olthoff

Acting Under Secretary of Commerce for Standards and Technology
National Institute of Standards and Technology
100 Bureau Drive
Gaithersburg, MD 20899

Eric S. Lander

Director, Office of Science and Technology Policy
The White House
1600 Pennsylvania Avenue NW
Washington, DC 20006

Dear Secretary Raimondo, Dr. Olthoff, and Dr. Lander,

In 1980, lawmakers passed the groundbreaking Bayh-Dole Act and ignited four-plus decades of American innovation.

The bipartisan law enabled universities and non-profit institutions to secure patent rights on government-funded breakthroughs. Before the Act, there was no simple path from academic laboratory to consumer. By encouraging technology transfer from universities to the private sector, this seemingly simple reform laid the groundwork for extraordinary economic growth.

As past Presidents/Chairs of AUTM, the leading organization of technology-transfer professionals, we strongly support maintaining and improving the Bayh-Dole Act. To that end, AUTM supports the current proposal from the National Institute of Standards and Technology (NIST) to clarify the original intent of the law.

Since 1996, Bayh-Dole has led to the creation of more than 14,000 start-ups¹ in fields ranging from agriculture to software to biotech. It dramatically accelerated biopharmaceutical innovation, contributing to the development of nearly 300 new drugs and vaccines.² Products like Honeycrisp apples³⁴ and high-definition televisions⁵⁶ to services like Google's search engine⁷ include the Bayh-Dole Act in their origin stories.⁸

Beyond inventions like these, between 1996 and 2017 Bayh-Dole contributed up to \$865 billion to U.S. gross domestic product and supported 5.9 million jobs.⁹

Despite this track record of success, some policymakers seek to weaken key provisions of the law and use the Act in ways for which it was expressly not intended. In particular, opponents have argued that the Act's march-in rights clause allows the government to impose price controls on end products that come out of public-private technology transfer. Other aspects of the proposed changes (permission to file provisional applications, federal reporting) add additional

administrative burdens and should be carefully considered for the impact on accelerating the commercialization of research.

In fact, that was never the law's intent, as its original two sponsors, Senators Birch Bayh and Bob Dole, said in a letter to the Washington Post: "The law makes no reference to a reasonable price that should be dictated by the government," they wrote. "This omission was intentional; the primary purpose of the act was to entice the private sector to seek public-private research collaboration rather than focusing on its own proprietary research. We believe that any issues relating to drug pricing should be handled legislatively and not through the amendment of this Act." ¹⁰

If policymakers reinterpret the law to allow price controls, they will undermine its purpose and end our odyssey of innovation.

Fortunately, the NIST proposal would codify and clarify the law's intent, extending our successful trajectory into the future.

We urge you to protect the integrity of the Act, which has had a profound impact on American health, security, and prosperity. Without its powerful incentives to bring products to market, research will languish in university labs in a colossal waste of taxpayer dollars.

Protecting the law, on the other hand, will spur further job creation in the United States and bolster our role as a global technological leader.

Sincerely,

Stephen Atkinson (1986-1987, Harvard University)
Katharine Ku (1988-1989, Stanford University)
Lita Nelsen (1992, Massachusetts Institute of Technology)
H.S. Duke Leahey (1993, Washington University in St. Louis)
Teri Willey (1996, University of Chicago)
Lou Berneman (1999, University of Pennsylvania)
James Severson (2000, Cornell University)
Mark Crowell (2005, University of North Carolina at Chapel Hill)
John Fraser (2006, Florida State University)
Patrick Jones (2007, University of Arizona)
Jon Soderstrom (2008, Yale University)

Arundee Pradhan (2009, Oregon Health and Sciences University)
Ashley Stevens (2010, Boston University)
Robin Rasor (2011, University of Michigan)
Todd Sherer (2012, Emory University)
Jane Muir (2014, University of Florida)
Fred Reinhart (2015, University of Massachusetts at Amherst)
David Winwood (2016, Louisiana State University)
Mary Albertson (2017, Stanford University)
Richard Chylla (2019, Michigan State University)
Marc Sedam (2020, University of New Hampshire)
Laura Savatski (2021, Versiti)

¹ <https://autm.net/AUTM/media/Surveys-Tools/Documents/AUTM-2019-Infographic.pdf>

² <https://autm.net/AUTM/media/Surveys-Tools/Documents/AUTM-2019-Infographic.pdf>

³ <https://autm.net/about-tech-transfer/better-world-project/bwp-stories/honeycrisp-apple>

⁴ <https://patents.google.com/patent/USPP7197>

⁵ <http://tech.mit.edu/V112/N17/hdtv.17n.html>

⁶ <http://news.mit.edu/1997/hdtv>

⁷ <https://autm.net/about-tech-transfer/better-world-project/bwp-stories/google>

⁸ <https://autm.net/about-tech-transfer/better-world-project/bwp-stories/taxol>

⁹ <https://autm.net/AUTM/media/Surveys-Tools/Documents/AUTM-2019-Infographic.pdf>

¹⁰ <https://www.washingtonpost.com/archive/opinions/2002/04/11/our-law-helps-patients-get-new-drugs-sooner/d814d22a-6e63-4f06-8da3-d9698552fa24/>