

January 28, 2025

The Honorable Mike Crapo
Chairman
Senate Committee on Finance
219 Senate Dirksen Office Building
Washington, DC 20510

Dear Chairman Crapo:

As the Senate Finance Committee prepares for the confirmation hearing of Robert F. Kennedy Jr., we wanted to dispel some common misconceptions about the Bayh-Dole Act's march-in rights that might arise tomorrow. As the [Bayh-Dole Coalition](#) was created to protect and defend the law as Congress enacted it, we thought this might be useful.

For years, those seeking to undermine the Bayh-Dole Act have alleged that the government can use the law to “march in” and force academic institutions to relicense patents for federally-funded inventions if the price of a developed product is “unreasonable,” a completely undefined term. They claim this to be a way to lower drug prices.

However, neither claim stands up to scrutiny.

- March-in rights are specifically designed for situations where licensees are not making good faith efforts to commercialize a federally-funded invention or when the developer cannot meet national health or safety needs. In those circumstances, the government can force an academic institution to license its patent to other companies. However, the law does not permit the government to “march in” to set prices on a successfully commercialized product. Senators Birch Bayh (D-IN) and Bob Dole (R-KS) explicitly [refuted](#) this idea, and every administration, including the Obama and Biden administrations, rejected every petition to do so.
- Misusing march-in rights would not be limited to NIH-funded inventions but would apply to any patent arising from government support. That would damage trust in universities and federal labs as reliable research partners. If the government can take away a company's license after it has invested years of hard work and millions or even billions of dollars, industry partners would be deterred from licensing

university or federal inventions, and venture capitalists would be unwilling to fund startups based on federally funded inventions.

- *Even if march-in rights were misused for price control, it would not lead to lower drug prices.* A recent study found that [up to 99%](#) of drugs and therapies are not even march-in eligible; most drugs are protected by multiple patents, with only one or two potentially receiving federal funding. Thus, competitors would not be able to copy the drugs.

The Biden Administration realized the futility of this approach. Despite floating a “march-in framework” as a means for lowering drug prices, the resulting feedback was so negative that the administration abandoned the action.

The Economist Technology Quarterly called Bayh-Dole: “Possibly the most inspired piece of legislation to be enacted in America over the past half century...More than anything, this single policy measure helped reverse America’s precipitous slide into industrial irrelevance.”

The Bayh-Dole Act has served us well for the past 45 years. As we now face unprecedented challenges to our economic and national security, this is no time to undermine it for a futile gesture that is both illegal and unwise.

Attached is a background paper on [march-in rights](#) that might be helpful.

Sincerely,



Joseph P. Allen
Executive Director
Bayh-Dole Coalition