



Date July 1, 2009

The Honorable Mark Udall
The Honorable Michael Bennet
The Honorable Diana DeGette
The Honorable Jared Polis
The Honorable John Salazar

The Honorable Betsy Markey
The Honorable Doug Lamborn
The Honorable Mike Coffman
The Honorable Ed Perlmutter

To the Colorado Delegation in Congress:

I am writing to you on behalf of the sixty-two corporate and individual members of the Colorado Photonics Industry Association. Photonics is the technology of generating and harnessing light and its energy for high tech solutions. It is a core enabling technology for the internet, and in renewable energy, information processing, medicine, materials processing, and basic research, among many others. Our members, many of whom are small businesses, are located throughout the state and provide over 6000 high paying jobs to the Colorado economy. Colorado is generally regarded as one of the centers of photonics technology in the United States.

Small photonics businesses in Colorado are very concerned about their international competitiveness. They find themselves competing with foreign sources to sell similar products and often find themselves at a pricing disadvantage when marketing their products. They realize that international competitiveness is a concern for most high tech businesses, but believe that in many respects it is a greater threat to small businesses than large. They ask that, as you consider legislation in this Congress, you keep in mind their particular needs, and address the following:

Small Business Innovative Research (SBIR) Grants: This program expired in 2008, was extended until March 2009, then until July 2009, and we understand is now the subject of several reauthorization bills. The SBIR program is one of the few government programs that directly helps small, high-tech business R&D, and is very important to our members. We ask that you work toward meaningful reauthorization of the SBIR program for a significant time period. We believe that one of the most important goals of reauthorization should be to ensure the largest possible participation. That means that increasing award dollar amounts should be matched by a proportionate increase in the set aside so that the number of awards remains at least at the current level. The program in its current form is extremely successful, and we ask that you work to keep the current program basically intact. Drastic changes in focus, participation guidelines and the like may well endanger this success.

We also call your attention to the fact that the overhead associated with some SBIR grants is very high and can be an unreasonable burden on many small firms. Cost-plus contracts such as used by the DoD require obtaining and maintaining a specially approved financial system. These additional requirements may protect the government, but they often directly conflict with the financial system needed for the commercial work, effectively working against one of the

intended benefits of the SBIR program. Establishing this financial system along with audits and approvals on rates can take several years to complete, delaying payments and fixing costs early in the program, putting the burden of inflation and other rate increases on the small company. These as well as other accounting requirements and overhead for tracking all expenses make cost plus contracts such a burden for small companies that we recommend that they are not allowed in the SBIR program.

Federal Regulation: We ask that, as new Federal regulations are developed, particular care be given to making sure that the economic impacts do not fall disproportionately on small businesses. We note that Federal human resource regulations presently fall heavily on small businesses, and are pushing them to more often use contractors than to provide long term employment. We also note that International Traffic in Arms Regulations (ITAR), while necessary for our security, are extremely complex and the time involved in obtaining necessary licenses is a heavy burden on small businesses.

Patents: Patents and trade secrets are essential to small business investments in innovative technologies that create jobs for Colorado communities, but patents are already too expensive to obtain and enforce. Therefore, please oppose provisions in the patent reform bill that add complexities and costs for obtaining and enforcing patents, especially first-to-file and open ended post grant patent review, and oppose pre-emption of trade secrets by later filed patents. Please support elimination of non-substantive inequitable conduct defenses and patent application fee diversion away from the Patent Office.

Health care costs: The United States needs to reform its health care system. This reform must be achieved in a way that does not place disproportionate burdens on small businesses or negatively impact U.S. competitiveness, and we ask that you work towards these goals.

Energy: We believe that decisions on energy policy will have a great impact on U.S. prosperity, security, and environment. They may, indeed, provide opportunities for small businesses to expand and thrive. But potential increases in energy costs may also damage our economy, and could damage small businesses disproportionately. We ask that, as you consider energy policy, you keep the particular needs of small businesses in mind.

The average size of companies in the US is approximately fifty employees and they generate a significant percentage of all new US jobs. It is imperative that small business be competitive to support jobs, technical innovations and economic stability. We think that a national strategy for competitiveness of small technical companies be put in place as part of a total competitiveness strategy. We thank you for your consideration of these issues.

Should you have questions, please contact Barbara Ihde, Executive Director, Colorado Photonics Industry Association, (303-834-1022), exec@coloradophotonics.org.

Sincerely,

David Giltner
President