September 17, 2002

The Honorable Ron Wyden
Chairman
Subcommittee on Science, Technology, and Space
Committee on Commerce, Science, and Transportation
U.S. Senate
Washington, DC 20510

Dear Mr. Chairman:

This letter presents the views of the National Science Foundation on S. 2817, the National Science Foundation Doubling Act, a five-year authorization bill covering fiscal years 2003 through 2007.

While the Foundation appreciates the Committee's firm commitment to support fundamental research, and science, technology, engineering, and mathematics (STEM) education, and the confidence that the Committee has demonstrated in NSF, we oppose S. 2817 in its current form for the reasons explained in this letter.

With its broad research mission and focused education efforts, the National Science Foundation is a cornerstone of our science and technology base. Indeed, our national security depends critically on whether American researchers and institutions remain at the forefront of discovery. However, the amounts authorized in S. 2817 do not conform to the Administration's FY 2003 Budget request for NSF. NSF supports the Administration's budget request and therefore the bill should be amended to reflect the amounts contained in the authorizing legislation the Foundation transmitted to the Congress on May 14, 2002. Moreover, Dr. John Marburger, Director of the White House Office of Science and Technology Policy (OSTP) and the President's Science Advisor, has stated that any plans for increased expenditures must be supported by a specific rationale for each increase, rather than an arbitrary formula.

The National Science Foundation is heartened by the value the Committee places on such cutting-edge research areas as information technology, nanoscale science and engineering, and plant genome research. These important areas involve both long-term research and near-term applications, ranging from more abundant disease free crop
yields, to life-saving medical devices, to faster, more secure information systems.

The Foundation is also heartened by the emphasis the Committee has placed on our STEM education programs. We hope to work with the Committee as the bill moves through the legislative process to refine legislative language in this regard. Specifically, with respect to the Mathematics and Science Partnerships Program, we are most concerned with the formula block grant provision in the later years of the program. This is inconsistent with the Foundation's exemplary merit review process and conflicts with competitive processes that promote excellence.

With respect to the Secondary School Systemic Initiative, and the Research on Mathematics and Science Learning and Education Improvement Program, we hope to work with the Committee to maintain flexibility in operating these programs to better fit within the framework of existing programs. Regarding duplication of programs in this area, the Foundation currently reports such information directly to Congress, making a separate report to Congress from OSTP redundant. Similarly, the Administration has questions about the section that calls for an OSTP assessment of the need for university-based centers for interdisciplinary research and advanced instrument development, and we look forward to working further with the Senate on this provision.

Another area of concern to the Foundation is the eligibility requirement for states to participate in the EPSCoR program. EPSCoR, as you know, is a state-NSF partnership to stimulate sustainable improvements in R&D competitiveness through the development and utilization of science and technology resources in a state's major research universities. The current eligibility rate of .7% will allow those states most in need to participate in this program. Increasing this eligibility rate to 1%, which would increase the number of participating states, could have the effect of diluting available funds to the states most in need, thus jeopardizing the program's purpose - to help the neediest states develop their research base and improve science and engineering research and education programs at their colleges and universities.

The issue of greatest concern to the Foundation in the Administration Amendments section is the provision that changes the existing relationship between NSF and the National Science Board with regard to appointments of staff. Without the benefit of Congressional hearings, we would be opposed to authorization language that would fundamentally change this relationship, as it has served the Foundation and the Board well for over 50 years.

Finally, Selection 6(7) of that bill would require the National Science Foundation to establish a SMET talent expansion program to increase the number of students, particularly students who are women, minorities, or persons with disabilities, studying toward and receiving associate's or bachelor's degrees in science, mathematics
engineering and technology. The Department of Justice advises the Foundation that court decisions have required specific justifications for any program that establishes a preference for enrolling women and minorities. To the extent the provision would establish a preference based on gender, that preference must be based on an "exceedingly persuasive" justification, United States v. Virginia, 518 U.S. 515, 533 (1996); the government must show "at least that the [challenged] classification serves important governmental objectives" and that the gender-conscious action is "substantially related to the achievement of those objectives," id, at 533 (internal quotations omitted). To the extent the provision would establish a preference based on race or national origin, the preference must be narrowly tailored to serve a compelling government interest, Adarand Constructors, Inc. v. Pena, 515 U.S. 200, 227 (1995).

Thank you for your continued support of the nation's scientific and engineering research and education obligations. We stand ready to work with the Committee to craft legislation that addresses the nation's needs within the budget request.

Sincerely,

Rita R. Colwell
Director

cc: Senator George Allen