

# Enrolled Senate Bill 582

Sponsored by Senators DECKERT, JOHNSON, MORSE, Representatives BERGER, BUTLER; Senators BROWN, DEVLIN, WALKER, Representatives C EDWARDS, D EDWARDS, HUNT, KOMP, MACPHERSON, READ (at the request of Governor Theodore R. Kulongoski)

CHAPTER .....

AN ACT

Relating to university venture development funds; amending ORS 351.692, 351.695, 351.697 and 353.445; and declaring an emergency.

**Be It Enacted by the People of the State of Oregon:**

**SECTION 1.** ORS 351.697 is amended to read:

351.697. (1) Each university in the Oregon University System and Oregon Health and Science University may elect to establish a university venture development fund **as provided in this section** for the purpose of facilitating the commercialization of university research and development. **A university shall direct that the university venture development fund be administered, in whole or in part, by the university or by the university's affiliated foundation.**

(2) The purposes of a university venture development fund are to provide:

- (a) Capital for university entrepreneurial programs;
- (b) Opportunities for students to gain experience in applying research to commercial activities;
- (c) Proof-of-concept funding for transforming research and development concepts into commercially viable products and services;

(d) Entrepreneurial opportunities for persons interested in transforming research into viable commercial ventures that create jobs in this state; and

(e) Tax credits for contributors to university research commercialization activities.

(3) Each university that elects to establish a university venture development fund shall:

- (a) Notify the Department of Revenue of the establishment of the fund;
- (b) Either directly or through [a] **its affiliated** foundation [*supporting university activities*], solicit contributions to the fund [*from contributors*] **and receive, manage and disburse moneys contributed to the fund;**

(c) Subject to ORS 315.521 (1), 351.692 (3) and 353.445 (3), issue tax credit certificates to contributors to the fund in the amount of the contributions;

(d) Establish a grant program that meets the requirements for a venture grant program under policies adopted by the State Board of Higher Education under ORS 351.692 or under policies adopted by the Oregon Health and Science University Board of Directors under ORS 353.445; and

(e) Subject to available moneys from the fund, provide qualified grant applicants with moneys [*to transform research and development concepts undertaken by the university into commercially viable products and services*] **for the purpose of facilitating the commercialization of university research and development.**

(4) Except as provided in subsection (5) of this section, moneys in a university venture development fund shall be disbursed only as directed by a university.

(5) A university or its affiliated foundation may charge its customary administrative assessment to manage its university venture development fund in an amount not to exceed three percent of the fund's average balance during the fiscal year of the university or its affiliated foundation. The administrative assessment may be paid from the assets in the fund. Except as authorized by law, no other fees or indirect costs shall be charged against the university venture development fund or any associated grants or other disbursements from the fund.

[4] (6) A university that has established a university venture development fund shall monitor the use of grants made from the fund and identify *[sources of]* **the** income *[received]* **realized** by the university as the result of the use of **the** grants *[to convert research and development concepts into commercially viable products and services. The university shall transfer 20 percent of the received income to the General Fund, until the amount transferred to the General Fund equals the amount of tax credits claimed due to contributions to the fund]*. **Income consists of cash realized from royalties, milestone and license fee payments and cash from the sale of equity. The university shall cause the transfer of 20 percent of the income realized from the grants to the General Fund, but not to exceed the amount of the tax credits issued by the university as a result of contributions to its university venture development fund. Immediately upon deposit of the transferred amount into the General Fund, the university may issue new tax credits to equal the transferred amount.**

(7) A university that has established a university venture development fund shall report annually to the Legislative Assembly or, if the Legislative Assembly is not in session, to the interim legislative committees on revenue. The report shall be at the end of the fiscal year of the university or of its affiliated foundation and provide information for that fiscal year. The university shall include in the report the following information pertaining to its university venture development fund:

- (a) The amount of donations received for the fund;
- (b) The amount of income received from the fund;
- (c) The amount of disbursements and grants paid from the fund;
- (d) The amount of income and royalties received from disbursements from the fund; and
- (e) The amount of moneys transferred from the fund to the General Fund.

**SECTION 2.** ORS 351.692 is amended to read:

351.692. The State Board of Higher Education shall adopt policies that prescribe the requirements for a venture grant program and the requirements that a grant applicant must meet in order to receive grant moneys from a university venture development fund, including requirements:

(1) That a grant recipient remain within this state for at least five years following the receipt of a grant or repay the grant plus interest;

(2) That each university that establishes a **university** venture development fund report amounts of tax credit certificates issued by the university and maintain records of *[licensing and royalty revenue received]* **income realized** by the university as the result of grants made from the fund *[under ORS 351.697 (4)]* and records of amounts paid to the General Fund *[under ORS 351.697 (4)]*; and

(3) Under which the Oregon University System is to maintain records and issue directions to universities that have established **university** venture development funds relating to when universities must cease issuing certificates, in order to ensure that the total amount *[contributed to university venture development funds within the Oregon University System does not exceed \$10 million.]* **owed to the General Fund by the Oregon University System at any one time under ORS 351.697 (6) does not exceed \$6 million.**

**SECTION 3.** ORS 353.445 is amended to read:

353.445. The Oregon Health and Science University Board of Directors shall adopt a policy that prescribes the requirements for a venture grant program and the requirements that a grant appli-

cant must meet in order to receive grant moneys from the university venture development fund operated by Oregon Health and Science University, including requirements:

(1) That a grant recipient remain within this state for at least five years following the receipt of a grant or repay the grant plus interest;

(2) That the university [*maintain records*] **report amounts** of tax credit certificates issued by the university and cease issuing certificates [*when the total amount of certificates issued by the university equals \$4 million; and*] **until the total amount owed to the General Fund by the university at any one time under ORS 351.697 (6) does not exceed \$2.4 million; and**

(3) That the university maintain records of [*licensing and royalty revenue received*] **income realized** by the university as the result of grants made from the fund [*under ORS 351.697 (4)*] and records of amounts paid to the General Fund [*under ORS 351.697 (4)*].

**SECTION 4.** ORS 351.695 is amended to read:

351.695. (1) [*At the request of*] A university within the Oregon University System[, *the State Treasurer shall establish one or more university venture development funds for the university within the State Treasury*] **may deposit moneys received for its university venture development fund in the Higher Education Donation Fund established under ORS 351.130.**

[*(2) Each university venture development fund established under subsection (1) of this section may be used for the receipt and disbursement of funds as described in ORS 351.697 and policies adopted under ORS 351.692. The State Treasurer may invest moneys deposited in a university venture development fund. Interest earned by moneys in a university venture development fund shall be credited to the fund.*]

(2) **Notwithstanding ORS 351.697 (5), the State Treasurer, as payment for expenses, may deduct a fee pursuant to ORS 293.718 from a university venture development fund administered by a university within the Oregon University System or the Oregon Health and Science University.**

(3) **A university within the Oregon University System or the Oregon Health and Science University may direct that moneys credited to its university venture development fund be held and invested by the university's affiliated foundation. Any moneys held by an affiliated foundation under this section or ORS 351.697 are not subject to the provisions of ORS chapter 293 or 295 and may not be considered public or state funds for any purpose. Moneys transferred to an affiliated foundation under this section or ORS 351.697 may be used only as provided under ORS 351.692, 351.695, 351.697 and 353.445.**

(4) **At the request of a university within the Oregon University System, moneys in the Higher Education Donation Fund that were deposited by the university under this section may be transferred to the university's affiliated foundation.**

(5) **A university within the Oregon University System or the Oregon Health and Science University may retain or may elect to have its affiliated foundation retain some or all of the principal contributed to a university venture development fund for investment to perpetuate and increase the moneys available for expenditure. The balance of the fund and the earnings on that balance may be used as provided under ORS 351.692, 351.695, 351.697 and 353.445.**

**SECTION 5.** This 2007 Act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this 2007 Act takes effect on its passage.

**Passed by Senate May 25, 2007**

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Secretary of Senate

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President of Senate

**Passed by House June 11, 2007**

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Speaker of House

**Received by Governor:**

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**Approved:**

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Governor

**Filed in Office of Secretary of State:**

.....M,....., 2007

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Secretary of State