

Senate Bill 582

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

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Allows public university to direct affiliated foundation to administer university venture development fund. Allows university or foundation to charge administrative assessment to manage fund.

Modifies income tax credit for taxpayers that contribute moneys to university venture development funds. Applies modification to tax years beginning on or after January 1, 2007.

Takes effect on 91st day following adjournment sine die.

A BILL FOR AN ACT

1
2 Relating to university venture development funds; creating new provisions; amending ORS 315.521,
3 351.692, 351.695, 351.697 and 353.445; and prescribing an effective date.

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

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

6 351.697. (1) Each university in the Oregon University System and Oregon Health and Science
7 University may elect to establish a university venture development fund **as provided in this section**
8 for the purpose of facilitating the commercialization of university research and development. **A**
9 **university shall direct that the university venture development fund be administered, in**
10 **whole or in part, by the university or by the university's affiliated foundation.**

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

12 (a) Capital for university entrepreneurial programs;

13 (b) Opportunities for students to gain experience in applying research to commercial activities;

14 (c) Proof-of-concept funding for transforming research and development concepts into commer-
15 cially viable products and services;

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

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

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

20 (a) Notify the Department of Revenue of the establishment of the fund;

21 (b) Either directly or through [a] **its affiliated** foundation [*supporting university activities*], so-
22 licit contributions to the fund [*from contributors*] **and receive, manage and disburse moneys**
23 **contributed to the fund;**

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

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

NOTE: Matter in **boldfaced** type in an amended section is new; matter [*italic and bracketed*] is existing law to be omitted. New sections are in **boldfaced** type.

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

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

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

14 [(4)] (6) A university that has established a university venture development fund shall monitor
 15 the use of grants made from the fund and identify [sources of] **the** income [received] **realized** by the
 16 university as the result of the use of **the** grants [to convert research and development concepts into
 17 commercially viable products and services]. **Income consists of cash realized from royalties,**
 18 **milestone and license fee payments and cash from the sale of equity.** The university shall
 19 **cause the transfer of a sum equal to 20 percent of the [received] income realized from the grants**
 20 **to the General Fund, until the amount transferred to the General Fund equals the amount of tax**
 21 **credits actually claimed due to contributions to the university venture development fund.**

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

23 351.692. The State Board of Higher Education shall adopt policies that prescribe the require-
 24 ments for a venture grant program and the requirements that a grant applicant must meet in order
 25 to receive grant moneys from a university venture development fund, including requirements:

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

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

32 (3) Under which the Oregon University System is to maintain records and issue directions to
 33 universities that have established **university** venture development funds relating to when universi-
 34 ties must cease issuing certificates, in order to ensure that the total amount contributed to univer-
 35 sity venture development funds within the Oregon University System does not exceed \$10 million.

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

37 353.445. The Oregon Health and Science University Board of Directors shall adopt a policy that
 38 prescribes the requirements for a venture grant program and the requirements that a grant appli-
 39 cant must meet in order to receive grant moneys from the university venture development fund op-
 40 erated by Oregon Health and Science University, including requirements:

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

43 (2) That the university [maintain records] **report amounts** of tax credit certificates issued by
 44 the university and cease issuing certificates when the total amount of certificates issued by the
 45 university equals \$4 million; and

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

4 **SECTION 4.** ORS 315.521 is amended to read:

5 315.521. (1) There shall be allowed a credit against the taxes that are otherwise due under ORS
 6 chapter 316 or, if the taxpayer is a corporation, under ORS chapter 317 or 318, for amounts con-
 7 tributed to a university venture development fund established under ORS 351.697, to the extent the
 8 university that established the fund issued a tax credit certificate to the taxpayer.

9 [*(2) The total amount of the credit allowed to a taxpayer shall equal 60 percent of the amount stated*
 10 *on the tax credit certificate. Except as provided in subsection (3) of this section, the amount of the credit*
 11 *allowed in any one tax year shall equal 20 percent of the amount actually contributed to the fund.*]

12 [(3)] (2) The credit allowed under this section **in any one tax year** may not exceed **the lesser**
 13 **of 20 percent of the amount actually contributed to the fund**, \$50,000 or the tax liability of the
 14 taxpayer for the tax year.

15 [(4)] (3) In the case of a credit allowed under this section for purposes of ORS chapter 316:

16 (a) A nonresident shall be allowed the credit in the same manner and subject to the same limi-
 17 tations as a resident. However, the credit shall be prorated using the proportion provided in ORS
 18 316.117.

19 (b) If a change in the tax year of a taxpayer occurs as described in ORS 314.085 or if the De-
 20 partment of Revenue terminates the taxpayer's tax year under ORS 314.440, the credit shall be
 21 prorated or computed in a manner consistent with ORS 314.085.

22 (c) If a change in the status of a taxpayer from resident to nonresident or from nonresident to
 23 resident occurs, the credit shall be determined in a manner consistent with ORS 316.117.

24 [(5)] (4) A taxpayer claiming a credit under this section shall add to federal taxable income for
 25 Oregon tax purposes any amount that is deducted for federal tax purposes and that also serves as
 26 the basis for the credit allowed under this section.

27 **SECTION 5. The amendments to ORS 315.521 by section 4 of this 2007 Act apply to tax**
 28 **years beginning on or after January 1, 2007.**

29 **SECTION 6.** ORS 351.695 is amended to read:

30 351.695. (1) [*At the request of*] A university within the Oregon University System[, *the State*
 31 *Treasurer shall establish one or more university venture development funds for the university within*
 32 *the State Treasury*] **may deposit moneys received from its university venture development fund**
 33 **in the Higher Education Donation Fund established under ORS 351.130.**

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

39 (2) **Notwithstanding ORS 351.697 (5), the State Treasurer, as payment for expenses, may**
 40 **deduct a fee pursuant to ORS 293.718 from a university venture development fund adminis-**
 41 **tered by a university.**

42 (3) **A university within the Oregon University System or the Oregon Health and Science**
 43 **University may direct that moneys credited to its university venture development fund be**
 44 **held and invested by the university's affiliated foundation. Any moneys held by an affiliated**
 45 **foundation under this section or ORS 351.697 are not subject to the provisions of ORS chap-**

1 ter 293 or 295 and may not be considered public or state funds for any purpose. Moneys
2 transferred to an affiliated foundation under this section or ORS 351.697 may be used only
3 as provided for and for the purposes set forth in ORS 351.692, 351.695, 351.697 and 353.445.

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

7 SECTION 7. This 2007 Act takes effect on the 91st day after the date on which the reg-
8 ular session of the Seventy-fourth Legislative Assembly adjourns sine die.

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