



DATE: April 4, 2013

TO: Chair Lee Beyer, Vice-Chair Bruce Starr, and the Members of the Senate Committee on Business and Transportation

FROM: Chuck Williams, Associate Vice President for Innovation, University of Oregon

RE: SB 361 and SB 392

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The University of Oregon would like to share the following concerns about SB 361 and SB 392. These bills set a troubling precedent that if applied to other research may have negative impacts on the innovation economy in Oregon. Our main concerns about these bills are as follows:

- The bills directly conflict with federal law by prohibiting the commercialization of varieties unless approved by the commodity commissions: The Bayh-Doyle Act mandates that universities take ownership and are obligated to commercialize inventions made under federal funding in whole or part. The Federal Government, under Bayh-Doyle and 2 CFR 215, automatically obtains a license and can revoke the ownership of intellectual property. By requiring the approval of the commodity commission, SB 361 and SB 392 contravene this law. (See CFR 401 st. seq. and 2 CFR 215.36).
- The bills discourage researchers from taking advantage of multiple pots of funding for research. The federal government is currently the largest funder of applied and basic research. Funds from other sources help to supplement federal funds. If the commodity commission puts restrictions on funds, there would be disincentives for investigators and industry collaborators to take advantage of those funds and slow down the pace of innovation.
- SB 361 and SB 392 would limit academic freedom. The proposed law would prohibit university researchers from publishing papers without permission from the commodity commission. This limits the flow of knowledge and information that is the core of a research university's mission and exposes universities to serious export control issues. In addition, this restriction, especially as it relates to the publication of data, would conflict with federal policy: the Federal Rights in Data provisions at 2 CFR 215.36, NIH Research Tool Guidelines, and recent NSF Data Management Regulations.



- SB 361 and SB 392 represent unsound business practices. These bills give the commodity commission a percentage of ownership based on the amount they put into a project. This does not account for the indirect costs of research, which is shouldered by research universities and funded mostly through federal grants with concomitant obligations regarding private use activities. I know of no other states that have adopted similar practices to those proposed in these bills.

I am happy to elaborate on any of the specific points above. I can be reached at [crw@uoregon.edu](mailto:crw@uoregon.edu).