

Senate Bill 255

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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**.

Permits taxpayer to defer recognition of long-term capital gain if taxpayer makes contribution to Innovation Development Fund. Authorizes Department of Revenue to administer tax deferral program.

Establishes Innovation Development Fund with purpose of facilitating commercialization of university research and development. Directs consortium of Oregon universities to award grants from fund and issue tax deferral certifications to taxpayers making contributions to fund. Directs Oregon Business Development Department to disburse grant moneys. Continuously appropriates moneys in fund to department for grant program.

Requires consortium and department to report annually to Legislative Assembly on operation of fund.

Applies to contributions made in tax years beginning on or after January 1, 2014.

Takes effect on 91st day following adjournment sine die.

A BILL FOR AN ACT

1
2 Relating to investment in innovation; creating new provisions; amending ORS 351.692, 351.695 and
3 353.445; appropriating money; and prescribing an effective date.

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

5 **SECTION 1. Section 2 of this 2013 Act is added to and made a part of ORS chapter 316.**

6 **SECTION 2. (1) A taxpayer who has income for federal income tax purposes from the sale**
7 **or other disposition of a capital asset may defer recognition of all or part of long-term capital**
8 **gain in determining the taxes imposed under this chapter if an amount equal to the gain is**
9 **contributed to the Innovation Development Fund established in section 6 of this 2013 Act**
10 **during the tax year.**

11 **(2) A taxpayer meeting the requirements of subsection (1) of this section and seeking**
12 **deferral shall file an application for the deferral with the Department of Revenue at the time**
13 **the taxpayer files the tax return for the tax year for which deferral is sought. The applica-**
14 **tion must include a tax deferral certification issued under section 6 of this 2013 Act.**

15 **(3) The department may require the taxpayer to provide additional proof of eligibility for**
16 **the deferral granted by this section.**

17 **(4) Deferral may be granted under this section only if the taxpayer:**

18 **(a) Has timely filed the taxpayer's tax return for the tax year; and**

19 **(b) Has paid any amount of tax due for the tax year that is not eligible for deferral under**
20 **subsection (2) of this section.**

21 **(5) If the taxpayer meets the requirements for deferral under this section, the depart-**
22 **ment shall grant the deferral.**

23 **(6) The department may adopt rules and prescribe any forms necessary to administer the**
24 **tax deferral allowed by this section.**

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 **SECTION 3.** Section 4 of this 2013 Act is added to and made a part of ORS chapter 317.

2 **SECTION 4.** (1) A taxpayer that has income for federal income tax purposes from the sale
3 or other disposition of a capital asset may defer recognition of all or part of long-term capital
4 gain in determining the taxes imposed under this chapter if an amount equal to the gain is
5 contributed to the Innovation Development Fund established in section 6 of this 2013 Act
6 during the tax year.

7 (2) A taxpayer meeting the requirements of subsection (1) of this section and seeking
8 deferral shall file an application for the deferral with the Department of Revenue at the time
9 the taxpayer files the tax return for the tax year for which deferral is sought. The applica-
10 tion must include a tax deferral certification issued under section 6 of this 2013 Act.

11 (3) The department may require the taxpayer to provide additional proof of eligibility for
12 the deferral granted by this section.

13 (4) Deferral may be granted under this section only if the taxpayer:

14 (a) Has timely filed the taxpayer's tax return for the tax year; and

15 (b) Has paid any amount of tax due for the tax year that is not eligible for deferral under
16 subsection (2) of this section.

17 (5) If the taxpayer meets the requirements for deferral under this section, the depart-
18 ment shall grant the deferral.

19 (6) The department may adopt rules and prescribe any forms necessary to administer the
20 tax deferral allowed by this section

21 **SECTION 5.** Sections 2 and 4 of this 2013 Act apply to contributions made in tax years
22 beginning on or after January 1, 2014.

23 **SECTION 6.** (1) The Innovation Development Fund is established in the State Treasury,
24 separate and distinct from the General Fund. Interest earned by the Innovation Development
25 Fund shall be credited to the fund. The fund shall have the purpose of facilitating the
26 commercialization of university research and development.

27 (2) Moneys in the fund are continuously appropriated to the Oregon Business Develop-
28 ment Department for the purposes of:

29 (a) Disbursing grants as provided in this section; and

30 (b) Administering the grant program as provided in this section.

31 (3) The Innovation Development Fund shall provide:

32 (a) Capital for university entrepreneurial programs;

33 (b) Opportunities for students to gain experience in applying research to commercial ac-
34 tivities;

35 (c) Proof-of-concept funding for transforming research and development concepts into
36 commercially viable products and services;

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

39 (e) Tax deferrals, as provided in sections 2 and 4 of this 2013 Act, for contributors to the
40 fund.

41 (4) Grants from the fund shall be awarded by a consortium composed of one represen-
42 tative from each of the following:

43 (a) The University of Oregon.

44 (b) Oregon State University.

45 (c) The Oregon Health and Science University.

1 (5) Members of the consortium described in subsection (4) of this section shall:

2 (a) Directly, or through the member's affiliated foundation, solicit contributions to the
3 fund;

4 (b) Subject to sections 2 and 4 of this 2013 Act, issue tax deferral certifications to con-
5 tributors to the fund in the amount of the contributions;

6 (c) Select qualified applicants to receive grants for the purpose of facilitating the
7 commercialization of university research and development; and

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

11 (6) Subject to the availability of moneys in the fund, the department shall manage and
12 disburse moneys contributed to the fund.

13 (7) Members of the consortium described in subsection (4) of this section shall monitor
14 the use of grants made from the fund and identify the income realized by the member uni-
15 versity as the result of the use of the grants. Income consists of cash realized from royalties,
16 milestone and license fee payments and cash from the sale of equity. The consortium shall
17 cause the transfer of 20 percent of the income realized from the grants to the General Fund,
18 but not to exceed the amount of the tax deferral certifications issued as a result of contri-
19 butions to the Innovation Development Fund. Immediately upon deposit of the transferred
20 amount into the General Fund, the consortium may issue new tax deferral certifications to
21 equal the transferred amount.

22 (8) The consortium described in subsection (4) of this section and the department shall
23 report annually to the Legislative Assembly or, if the Legislative Assembly is not in session,
24 to the interim legislative committees on revenue. The report shall be filed no later than April
25 15 and provide information for the preceding calendar year. The consortium shall include in
26 the report the following information pertaining to the Innovation Development Fund:

27 (a) The amount of contributions received for the fund;

28 (b) The amount of income received from the investment of moneys in the fund;

29 (c) The amount of disbursements and grants paid from the fund;

30 (d) The amount of income described in subsection (7) of this section received from dis-
31 bursements from the fund; and

32 (e) The amount of moneys transferred from the fund to the General Fund.

33 **SECTION 7.** ORS 351.692 is amended to read:

34 351.692. The State Board of Higher Education shall adopt policies that prescribe the require-
35 ments for a venture grant program and the requirements that a grant applicant must meet in order
36 to receive grant moneys from a university venture development fund **or from the Innovation De-**
37 **velopment Fund established in section 6 of this 2013 Act**, including requirements:

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

40 (2) That each university that establishes a university venture development fund **or is a member**
41 **of the consortium described in section 6 of this 2013 Act** report amounts of tax credit certif-
42 icates **and tax deferral certifications** issued by the university and maintain records of income re-
43 alized by the university as the result of grants made from the *[fund]* **venture development fund**
44 **or the Innovation Development Fund** and records of amounts paid to the General Fund; and

45 (3) Under which the Oregon University System is to maintain records and issue directions to

1 universities that have established university venture development funds relating to when universi-
2 ties must cease issuing **tax credit** certificates, in order to ensure that the total amount owed to the
3 General Fund by the Oregon University System at any one time under ORS 351.697 (6) does not
4 exceed \$6 million.

5 **SECTION 8.** ORS 351.695 is amended to read:

6 351.695. (1) A university within the Oregon University System may deposit moneys received for
7 its university venture development fund in the Higher Education Donation Fund established under
8 ORS 351.130.

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

12 (3) A university within the Oregon University System or the Oregon Health and Science Uni-
13 versity may direct that moneys credited to its university venture development fund be held and in-
14 vested by the university's affiliated foundation. Any moneys held by an affiliated foundation under
15 this section or ORS 351.697 **or section 6 of this 2013 Act** are not subject to the provisions of ORS
16 chapter 293 or 295 and may not be considered public or state funds for any purpose. Moneys trans-
17 ferred to an affiliated foundation under this section or ORS 351.697 **or section 6 of this 2013 Act**
18 may be used only as provided under ORS 351.692, 351.695, 351.697 and 353.445 **and section 6 of this**
19 **2013 Act.**

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

23 (5) A university within the Oregon University System or the Oregon Health and Science Uni-
24 versity may retain or may elect to have its affiliated foundation retain some or all of the principal
25 contributed to a university venture development fund, **or the Innovation Development Fund es-**
26 **established in section 6 of this 2013 Act**, for investment to perpetuate and increase the moneys
27 available for expenditure. The balance of the [*fund*] **venture development fund or the Innovation**
28 **Development Fund** and the earnings on that balance may be used as provided under ORS 351.692,
29 351.695, 351.697 and 353.445 **and section 6 of this 2013 Act.**

30 **SECTION 9.** ORS 353.445 is amended to read:

31 353.445. The Oregon Health and Science University Board of Directors shall adopt a policy that
32 prescribes the requirements for a venture grant program and the requirements that a grant appli-
33 cant must meet in order to receive grant moneys from the university venture development fund op-
34 erated by Oregon Health and Science University **or from the Innovation Development Fund**
35 **established in section 6 of this 2013 Act**, including requirements:

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

38 (2) That the university report amounts of tax credit certificates issued by the university and
39 cease issuing certificates until the total amount owed to the General Fund by the university at any
40 one time under ORS 351.697 (6) does not exceed \$2.4 million; and

41 (3) That the university maintain records of income realized by the university as the result of
42 grants made from the [*fund*] **venture development fund or the Innovation Development Fund**
43 and records of amounts paid to the General Fund.

44 **SECTION 10. This 2013 Act takes effect on the 91st day after the date on which the 2013**
45 **regular session of the Seventy-seventh Legislative Assembly adjourns sine die.**

