The Bayh-Dole Act: 1980 - Present

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Prior to Bayh-Dole - 1979

- Energy Crisis
- Iran Hostage Crisis
- Chrysler Bailout
- JAPAN, Inc.
- Economic Malaise - Stagflation
- “Misery Index” - 8% unemployment + 12% inflation
We found that hundreds of new compounds developed at university laboratories had not been tested and screened by the pharmaceutical industry because the manufacturers were unwilling to undertake the expense without some possibility of obtaining exclusive rights to further development of the product.

— 1968 General Accounting Office study of Department of Health, Education and Welfare for President Lyndon B. Johnson
"A wealth of scientific talent at American colleges and universities – talent responsible for the development of numerous innovative scientific breakthroughs each year – is going to waste as a result of bureaucratic red tape and illogical government regulations..."

"Unless private industry has the protection of some exclusive use under patent or license agreements, they cannot afford the risk of commercialization expenditures. As a result, many new developments resulting from government research are left idle."

— Senator Birch Bayh's introductory statement, September 13, 1978
Technology Transfer Before 1980

- Centralized federal technology management
- No incentives for universities to commercialize R&D
- 35 different federal patent policies
How The Bayh-Dole Act Works

• Universities and small businesses own inventions made with federal dollars.

• Universities are required to share royalties with their inventors.

• Small businesses and universities proposing substantial manufacturing in the U.S. are given preference to licensing.

• The federal government reserves the right to use the invention royalty-free for its own purposes.
From 1980 to 2005 American universities...

- Witnessed nearly a tenfold increase in the amount of patents they generated.
- Spun off more than 5000 firms to exploit research done in their labs.
- Created 260,000 jobs.
- Contributed $40 billion annually to the American economy.
Bayh-Dole Act – Impact

• “Possibly the most inspired piece of legislation to be enacted in America over the past half-century was the Bayh-Dole Act of 1980”
  – The Economist December 12, 2002

• According to former President of NASDAQ, an estimated 30% of market value is rooted in university-based, Federally-funded research
Bayh-Dole Act – under U.S. fire

Hence recent “9 points to consider when licensing university technology”

• Universities should reserve the right to practice licensed inventions and allow other non-profit and governmental organisations to do so
• Exclusive licenses should be structured in a manner that encourages technology development and use
• Strive to minimize the licensing of future improvements
• Universities to anticipate and help manage technology transfer related conflicts of interest.
• Ensure broad access to research tools
• Enforcement action should be carefully considered.
• Be mindful of export regulations.
• Be mindful of the implications of working with patent aggregators.
• Consider including provisions that address unmet needs, such as those of neglected patient populations or geographic areas, giving particular attention to improved therapeutics, diagnostics and agriculture technologies for the developing world.
The Bayh-Dole Act – conclusions

- Good for Policy
- Good for the Public
  - Good for the Economy

For more information:
Association of University Technology Managers: www.autm.net
Council on Government Relations: www.cogr.edu
  “21 Questions and Answers About University Technology Transfer”