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ISSUE BRIEF

Patent Taxes Threaten America's Most Productive Engine of Growth

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Executive Summary

U.S. Commerce Secretary Howard Lutnick recently proposed seizing 50% of the revenue that universities earn from licensing the patented discoveries they've made with help from federally-funded research grants.[1] Lutnick framed the proposal as a way to repay taxpayers and ensure they receive a return on their research investments.

But levying what is, by any reasonable definition, a tax on universities' licensing royalties won't repay the hardworking Americans who collectively funded university research.

As President Reagan famously noted, "when you put a big tax on something, the people will produce less of it."[2]

That's basic economics. Income taxes disincentivize work. Capital gains taxes disincentivize investment. And a tax on university licensing would disincentivize academic institutions from expending the time, money, and effort to engage in federally-funded research, patent their researchers' discoveries and then seek out private-sector firms interested in licensing and commercializing those promising designs.

> "A tax on universities' licensing royalties won't repay the hardworking Americans who collectively funded university research."

The resulting, predictable decline in licensing will result in fewer firms transforming university discoveries into real world products. That means fewer jobs created, slower economic growth, and lower—not higher—government tax revenues.

Bayh-Dole Already Delivers Tremendous ROI for Taxpayers

Since 1980, the Bayh-Dole Act has ensured that federally funded research benefits the public. By empowering universities and small businesses to patent and license discoveries stemming from federal research grants, Bayh-Dole has fueled the growth of entire industries and generated a good ROI (Return on Investment) for taxpayers.

Before Bayh-Dole, the government retained the patent rights on any inventions arising from federally-funded research—and the fruits of that research rarely reached the public. Companies were reluctant to license patents from the government, and by 1980, the federal government had licensed fewer than 5% of the 28,000 patents it owned.[3]

Bayh-Dole changed that. Universities, nonprofits, and small businesses could now retain ownership of patents and license them to private firms. This created a financial incentive for them to seek out commercial partnerships. Industry invested the capital and expertise to transform ideas into usable products, while universities reinvested royalties into research and education.

The results have been extraordinary. The academic technology transfer system established by Bayh-Dole has helped launch more than 19,000 startups, including 950 in 2024 alone.[4] Bayh-Dole has

also played a role in the development of over 200 new drugs and vaccines,[5] including AIDS therapies and mRNA vaccines.[6]

Across the country, universities depend on technology-transfer revenue to keep labs running, support graduate training, and anchor regional research clusters. In 2024, universities reported nearly 8,000 patents and over 26,000 new invention disclosures, spread across institutions nationwide.[7]

It is no surprise that *The Economist* hailed Bayh-Dole as "the most inspired piece of legislation" in the postwar era.[8] By any measure—economic growth, medical progress, or national competitiveness—the law is working exactly as intended.

How Royalty Seizures Break the Model

Under the current system, universities have strong incentives to patent and license their discoveries. A licensing tax would upend this model.

Universities respond to incentives just like private companies do. If Washington reduces the potential reward for finding industry partners, they could change their behavior accordingly.

> "Bayh-Dole has helped launch more than 19,000 startups . . . and played a role in the development of over 200 new drugs and vaccines."

Technology-transfer offices already operate on modest budgets, using the occasional successful license to offset the costs of filing, maintaining, and marketing hundreds of patents that may never generate a return. Even under the current system, the vast majority of campus discoveries never make it beyond the patent stage. In 2023, universities licensed fewer than one in eight of their disclosed inventions.[9]

If the government begins claiming half of the revenue from the few patents that succeed, universities will have little reason to keep investing in that process. Some will scale back or even close their technology-transfer offices altogether.

Companies will still invest where they see potential. What will change is university behavior—the willingness to take the financial and administrative risk of engaging in research that it knows it cannot commercialize and pursuing patent protection on it. With fewer university owned patents and thus fewer licenses signed and fewer startups launched, patients would see fewer therapies reach the clinic, workers would see fewer job opportunities, and taxpayers would lose out on the billions in revenue generated by thriving industries.

The "Zero Benefit" Myth

When initially proposing the tax, Lutnick justified it by claiming that taxpayers currently derive "zero" financial benefit from government-funded research.[10]

But they do earn a return—an enormous one. From 1996 to 2020, academic technology transfers contributed $1.9 trillion to gross industrial output and supported 6.5 million jobs.[11]

Consider the immense return that taxpayers have reaped on National Science Foundation grant number IRI-9411306-4, which provided funding to Stanford Ph.D. students Larry Page and Sergey Brin. The researchers developed—and with Stanford's help—patented their now famous PageRank algorithm.[12] Page and Brin, recognizing the algorithm's commercial potential, licensed it back from Stanford in exchange for 1.8 million shares of their new startup, Google.[13] The rest, of course, is history.

That single university-industry partnership—enabled by Bayh-Dole's framework—helped launch a company that now employs more than 100,000 Americans, facilitates over $850 billion in U.S. economic activity annually, and generates tens of billions of dollars in corporate and capital gains taxes for the government.[14] In 2024 alone, Alphabet—Google's parent company—paid almost $20 billion in taxes.[15]

> "If the government begins claiming half of the revenue from the few patents that succeed, universities will have little reason to keep investing in that process."

Far from shortchanging taxpayers, the Google story shows that when universities have an incentive to help commercialize federally-funded research, the public's return on investment can be extraordinary.

According to the Association of University Research Parks, universities and nonprofit research institutions help generate $33 billion in federal tax revenue each year.[16] By comparison, universities and nonprofit research institutions collectively earned $3.8 billion in licensing revenue in 2022.[17]

In other words, the larger tax base stemming from the increased economic activity facilitated by Bayh-Dole far outweighs the relatively meager direct royalties the government would claim.

Lessons from the 2017 Tax Cuts and Jobs Act

The 2017 Tax Cuts and Jobs Act demonstrated the power of lowering tax burdens to unleash growth. By cutting the corporate rate from 35% to 21% and simplifying the tax code, Congress created strong incentives for businesses to invest, expand, and hire.[18] The results were positive and almost immediate.

Employers added 6.7 million jobs between 2017 and early 2020.[19] Unemployment fell to its lowest rate in nearly 50 years in 2019.[20] Median household income reached $68,703 in 2019, up almost 7% from the 2018 median.[21] Corporate R&D surged to $580 billion in 2019.[22]

The law, which was largely made permanent by President Trump's One Big Beautiful Bill Act, reflects a cornerstone of free-market economic thought—that because taxes disincentivize labor and investment, cutting tax rates can actually increase government revenues by sparking more economic activity. The idea, most famously illustrated by the Laffer Curve, demonstrates why a licensing tax would be so detrimental.[23]

For universities, technology transfer is already a high-risk, low-margin activity. Even at top research universities like Stanford, only 20% of licensed patents end up generating positive net income for the university after accounting for patent application, administration, and litigation costs.[24]

If Washington were to seize half of the revenue from the few federally-backed university patents that succeed, universities would have far less incentive to conduct commercially promising research within federal programs. Much of that work would simply migrate outside the federal funding system instead.

> "Taxing invention at its most fragile stage . . . risks deterring the investment and collaboration that have made America the world's leader in discovery."

Technology-transfer offices, which provide the essential service of identifying and courting potential licensing partners, would become far harder to sustain. Without those offices, the industry partnerships that turn university discoveries into real-world products would erode.

The result would be precisely the opposite of what Congress hoped to achieve with the Bayh-Dole Act.

Conclusion

The Bayh-Dole framework helps move taxpayer-funded discoveries into the hands of entrepreneurs and companies that can turn them into new products—and create new jobs along the way. The return to the American people has been immense: tens of thousands of products, millions of jobs, and trillions added to the economy.

Imposing a patent licensing tax would undermine that success. By taxing invention at its most fragile stage, the proposal risks deterring the investment and collaboration that have made America the world's leader in discovery and commercialization.

This leadership is not guaranteed. China is investing heavily in the technologies of tomorrow. In fact, China now leads in 37 of 44 critical technologies.[25]

Protecting Bayh-Dole is not primarily about defending universities. It is about safeguarding a proven engine of economic growth, technological progress, and national competitiveness. It's also about ensuring that patients have access to the latest treatments and technologies that can enhance—and even save—their lives.

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Sally C. Pipes is President, CEO, and Thomas W. Smith Fellow in Health Care Policy at the Pacific Research Institute, a California-based, free market think tank.

She is a regular columnist for *Forbes.com*, *Newsmax*, and the *Washington Examiner*. Her op-eds are also published in many mainstream publications around the country.

Through her writings, interviews, speeches, debates, podcasts and meetings with policymakers, she educates Americans about the dangers of government-run health care and shares ideas for solutions to provide better quality and access to health care to all Americans while lowering costs.

Her latest book, *The World's Medicine Chest: How America Gained Pharmaceutical Supremacy – and How to Keep It*, was recently published by Encounter Books. Her previous book, *False Premise, False Promise: The Disastrous Reality of Medicare for All* (Encounter), reached #1 on the Amazon.com Health Law bestseller list.

In 2018, she received an honorary PhD from Pepperdine University's School of Public Policy for her work on health care reform.

A former Canadian, Ms. Pipes became an American citizen in 2006. She is married to Professor Charles R. Kesler.

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