



**Testimony by Steve Warren
Vice Chancellor for Research and Graduate Studies
Senate Ways and Means Committee
Monday, January 23, 2012**

Senator McGinn, members of the Committee: Thank you for this opportunity to speak today in favor of SB-258, a bill that would make it easier for university researchers to launch successful startup companies in Kansas while ensuring conflicts of interest are managed appropriately.

I'm Steve Warren, vice chancellor for research and graduate studies at the University of Kansas. Part of my role is to encourage researchers to pursue knowledge in a wide range of fields. For some researchers in some cases, that knowledge has commercial applications that could become products in the marketplace. The end result adds economic value in our state, whether it's a startup company, licensing revenue for the university, jobs, or all three.

The Kansas economy, while showing encouraging signs of improvement, is hungry for more innovation and entrepreneurial investment. At KU, we are working to foster more research commercialization, and SB-258 is an important step in that effort.

There are great things happening at KU. Last week, some of you heard the presentation by Dr. Val Stella on drug discoveries and innovation at the KU School of Pharmacy. Also last week, we announced that the Bioscience & Technology Business Center on the Lawrence Campus is full-up, with nine tenants and 64 employees. That facility opened in late 2010. We are already planning a new wing to accommodate more startups, more small emerging companies, and more research collaborations with faculty.

And please note: KU is moving ahead on this expansion with no request for additional state funding.

These and other activities are evidence KU is making significant investments in our economic development mission. That's why it's important that SB-258 be enacted, as a way of removing an unnecessary barrier to entrepreneurial faculty who are motivated to start and grow a research-based business in Kansas.

Faculty inventions are the intellectual property of the university. If the inventor wants to form a startup company, he or she must obtain a license and enter into a formal agreement that specifies the financial arrangements. It's a contract.

Current law presents a roadblock to this process, however. Under KSA 46-233, the inventor is prevented from being “substantially involved in the preparation of or participate in the making of a contract” with the university. This includes providing significant factual or specific information or advice or recommendations in relations to the negotiated terms of the contract. Since the startup company often consists of just one person at this early stage, and that one person is in a unique position to understand the technology and the potential market, excluding the inventor from the contract negotiation puts everyone at a disadvantage. It’s imperative that the inventor remain involved. Otherwise investors are reluctant to make a financial commitment.

SB-258 would allow researchers to provide “significant factual information or advice or recommendations” to the negotiation. This is a very helpful and needed change, because it clarifies the ability of the person with the most knowledge of the technology to at least sit at the table during the process. At the same time, SB-258 maintains a fundamental safeguard. The inventor will have no authority to negotiate the terms of an agreement on behalf of the university or to approve such an agreement on behalf of the university. . We think that’s appropriate in both respects, giving the university the benefit of that person’s unique knowledge while protecting the legitimate interests of the state.

Why does this matter?

KSA 46-233 provides blanket protection for the state in most of its contract negotiations. The situation I’ve just described, however, was not envisioned when the law was enacted, because the idea of researchers becoming entrepreneurs is a relatively recent phenomenon.

Today at KU and other research universities in Kansas, we are actively promoting and fostering entrepreneurship among our faculty, staff, and students. We have a clear mandate to do this: from the Board of Regents, the Legislature, the Governor, and the people of Kansas. It is also an expectation of the federal government, which currently funds 86 percent of all research at KU.

We are also fortunate enough to have some outstanding younger faculty who come to KU expecting to commercialize their research discoveries and hoping to start companies that move their research into the marketplace. We believe this is a good objective for those faculty, and a good thing for the university and the state to encourage.

Inevitably, conflicts of interest arise when faculty members employed by the university are also entrepreneurs employed by their own company. The Board of Regents and the university require that such conflicts be acknowledged and carefully managed. That would not change under SB-258.

Our goal with this bill is to clarify the intent and the scope of the statute, applying it to a limited group of people in a limited setting under limited circumstances. By adopting SB-258, you are taking positive action to remove an obstacle to the commercialization of university technology. You are also promoting the formation of research-based start-up companies in Kansas. Thank you for your time and attention to this matter of significant importance to our research commercialization efforts. ■