Before Bayh-Dole, the U.S. had inconsistent technology transfer policies for federally-funded research. These policies provided minimal return on the taxpayer dollars invested in research.

In the absence of a clear policy to promote innovation, little federally-funded government or academic research made its way from laboratories to the marketplace.

Statutes and agency policies prevented research scientists from commercializing the inventions that resulted from federally-funded research.

Paradoxically, when patent rights remained in the public domain and belonged to everyone, no one had the necessary economic incentive to undertake the risks of commercialization.

"What sense does it make to spend billions of dollars each year on government-supported research and then prevent new developments from benefiting the American people because of dumb bureaucratic red tape?"
- Senator Birch Bayh
1980

Graphic from: The Bayh-Dole Act at 25, by BayhDole25, Inc.
Historical Origins of Bayh-Dole

A brief history of public policy supporting technology transfer

The U.S. Constitution
“...To Promote the Progress of Science and useful arts...”

Research Corporation
Encouraged by Frederic Cotrell, University of California, Berkeley

WWII
National Defense Resources Committee

Institutional Patent Agreements
Pushed universities to become stronger advocates of improvement in licensing procedures.

Society of University Patent Administrators
Pre-cursor to Association of University Technology Managers (AUTM)


Public Financing of Higher Education
The Morrill Act of 1862

Wisconsin Alumni Research Foundation (WARF)
Founded to manage technology that eliminated rickets.

Science: The Endless Frontier
Led to NSF, NIH, Office of Naval Research

Economic Crisis
Stagflation, oil crises, Cold War distracted policy makers from innovation policy

Bayh-Dole Act
...And subsequent legislative and policy action in the 1980’s

Timeline adapted from: The Bayh-Dole Act at 25, by BayhDole25, Inc.
In the 1970s, policymakers and universities began creating a U.S. technology transfer policy that would promote successful commercialization of research, and would gain meaningful benefit from the then-$8 billion annual investment in federal research.

The new policy applied to research conducted in universities and other research institutions, and later was extended to research conducted in federal laboratories.

The Bayh Dole Act produced great benefits for the American economy and society. It relied on three key mechanisms: promoting intellectual property protection for innovators; relying on market forces to guide commercialization of innovation; and maintaining a consistent level of support for higher education and scientific research.

The Federal Government retained “march-in rights” to pull back title to inventions to ensure development, address health and safety concerns, or address abusively favorable deals.

THE BAYH DOLE FRAMEWORK RESULTED IN DRAMATIC GROWTH IN COMMERCIALIZATION OF FEDERALLY FUNDED RESEARCH. From 1991 to 2003, more than 25,000 patents were issued. 4,081 companies have been created from universities since 1980.