



EXECUTIVE CHAMBERS
HONOLULU

DAVID Y. IGE
GOVERNOR

June 19, 2017

GOV. MSG. NO. 1139

The Honorable Ronald D. Kouchi,
President
and Members of the Senate
Twenty-Ninth State Legislature
State Capitol, Room 409
Honolulu, Hawai'i 96813

The Honorable Scott K. Saiki,
Speaker and Members of the
House of Representatives
Twenty-Ninth State Legislature
State Capitol, Room 431
Honolulu, Hawai'i 96813

Dear President Kouchi, Speaker Saiki, and Members of the Legislature:

This is to inform you that on June 19, 2017, the following bill was signed into law:

HB847 HD1 SD1 CD1

RELATING TO UNIVERSITY OF HAWAII
RESEARCH
ACT 039 (17)

Sincerely,

DAVID Y. IGE
Governor, State of Hawai'i

Approved by the Governor
on JUN 19 2017
HOUSE OF REPRESENTATIVES
TWENTY-NINTH LEGISLATURE, 2017
STATE OF HAWAII

ORIGINAL

ACT 039
H.B. NO. 847
H.D. 1
S.D. 1
C.D. 1

A BILL FOR AN ACT

RELATING TO UNIVERSITY OF HAWAII RESEARCH.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. The legislature finds that it is a matter of
2 concern to promote the economic health and diversify workforce
3 opportunities of the State. The legislature further finds that
4 transforming ideas and concepts arising from basic and applied
5 research conducted at the University of Hawaii, the sole public
6 institution of higher education in this State, into commercially
7 viable and sustainable products and businesses will contribute
8 to economic health and workforce diversification.
9 Commercialization of intellectual property created at or by the
10 university thus achieves a public purpose and benefits the
11 State.

12 In the past, the legislature has authorized and provided
13 public funds to support efforts by other state agencies to
14 promote entrepreneurial development, support research
15 commercialization, or provide access to startup investment
16 capital. These state efforts include, for example, the HI
17 growth initiative, the venture accelerator funding programs, and



1 other projects sponsored by the Hawaii strategic development
2 corporation.

3 Because a core function of the University of Hawaii is to
4 conduct basic and applied research, the legislature further
5 finds that the university is uniquely positioned to identify
6 promising innovations and new discoveries arising from
7 university research. For inventions that show commercial
8 potential, the university can use the educational resources from
9 its various professional schools, such as business, law, and
10 engineering, to provide focused instruction, expert mentorship,
11 practical guidance, and advanced training in business
12 development. A systematic program of support in the early
13 stages of commercialization is essential to ensure the viability
14 of businesses and sustainable employment opportunities. The
15 legislature further finds that education and instruction are
16 integral components of the university's core mission, and
17 applying university resources to support the commercialization
18 of inventions and concepts is a proper use of public resources.

19 The legislature also finds that an impediment to the
20 effective transformation of university innovation into
21 commercial products and viable businesses is the lack of clear



1 and express legal authority to frame and support the
2 university's technology transfer programs. Lack of express
3 statutory authority for these commercialization and technology
4 transfer activities sponsored by the university creates business
5 uncertainty that deters private interests from fully engaging in
6 collaborative efforts promoted by the university. Lack of clear
7 authority for any innovation or commercialization program within
8 the university may also deter university faculty or students
9 from seeking and actively participating in the program.

10 The purpose of this Act is to provide express statutory
11 authority to enable and facilitate the deployment of university
12 educational and instructional resources, university managerial
13 and fiscal resources, and university personnel to promote the
14 economic health and diversification of workforce opportunities
15 in the State through the commercialization of inventions and
16 discoveries generated by or at the university. The legislature
17 finds that there is a public benefit when university resources
18 are used for such purposes, and accordingly, other state laws,
19 including the state code of ethics, should be construed, on
20 balance, to effectuate the intent and public purposes of this
21 Act.



1 SECTION 2. Chapter 304A, part IV, Hawaii Revised Statutes,
2 is amended by adding a new subpart to be appropriately
3 designated and to read as follows:

4 " . INNOVATION AND COMMERCIALIZATION INITIATIVE PROGRAM

5 §304A- Innovation and commercialization initiative
6 program; establishment. There is established within the
7 University of Hawaii an innovation and commercialization
8 initiative program under the direction of the vice president for
9 research and innovation.

10 §304A- Innovation and commercialization initiative
11 program; implementation. In implementing the innovation and
12 commercialization initiative program, the University of Hawaii
13 may promote, sponsor, and participate in the transformation of
14 the products of its research and instructional activities into
15 viable economic enterprises, and may create, finance, and
16 participate in organizations that contribute to the economic
17 development and workforce diversification of the State using
18 university research and university personnel. The university,
19 without limitation, may:

20 (1) Adopt policies and management procedures to carry out
21 the purposes of the program;



- 1 (2) Contribute equity, loan funds, or participate directly
2 or indirectly to finance concepts or proposals that
3 are likely to lead to viable businesses, economic
4 development, or workforce opportunities based on
5 university research;
- 6 (3) Enter into contracts and other appropriate
7 arrangements with start-up ventures to provide loans,
8 initial and expansion capital, and other forms of
9 financial assistance;
- 10 (4) Solicit, evaluate, and assist in the preparation,
11 drafting, and refinement of business plans and
12 proposals;
- 13 (5) Provide advice, instruction, training, and technical
14 and marketing assistance to support and promote the
15 enterprises in which the university invests;
- 16 (6) Develop, coordinate, and deliver instruction,
17 training, and outreach programs to build and maintain
18 the capacity to sustain these economic enterprises;
- 19 (7) Implement specialized programs designed to encourage
20 the development of new products, businesses, and
21 markets;



- 1 (8) Prepare, publish, and distribute technical studies,
2 reports, bulletins, and other materials consistent
3 with customary standards of university publication,
4 subject to the maintenance and respect for
5 confidentiality of client proprietary information;
- 6 (9) Organize, sponsor, and participate in conferences,
7 workshops, seminars, and other educational activities
8 relating to the formation and financial viability of
9 businesses that use university research products or
10 university personnel;
- 11 (10) Provide and pay for advisory or consulting services
12 and technical, managerial, and marketing assistance,
13 support, and promotion to carry out the purposes of
14 this subpart;
- 15 (11) Acquire, hold, and sell qualified securities;
- 16 (12) Consent, subject to the provisions of any contract
17 with noteholders or bondholders, whenever the
18 university deems it necessary or desirable in the
19 fulfillment of the purposes of this subpart, to the
20 modification, with respect to rate of interest, time
21 of payment of any installment of principal or



1 interest, or any other terms, of any contract or
2 agreement of any kind to which the university is a
3 party;

4 (13) With the assistance of an appropriate foundation or
5 development entity, accept donations, grants,
6 bequests, and devises of money, property, service, or
7 other things of value that may be received from the
8 United States or any agency thereof, any governmental
9 agency, or any public or private institution, person,
10 firm, or corporation, to be held, used, or applied for
11 any or all of the purposes in support of this program;

12 (14) Invest any funds held in reserves or sinking funds, or
13 any funds not required for immediate disbursement, in
14 such investments as may be lawful for fiduciaries in
15 the State;

16 (15) Acquire real property, or an interest therein, by
17 purchase or foreclosure, where that acquisition is
18 necessary or appropriate to protect or secure any
19 investment or loan in which the university has an
20 interest; sell, transfer, and convey the property to a
21 buyer and, if the sale, transfer, or conveyance cannot



- 1 be effected with reasonable promptness or at a
2 reasonable price, to lease the property;
- 3 (16) Consistent with the purposes of the program, acquire,
4 own, hold, dispose of, and encumber personal property
5 of any nature, or any interest therein, either
6 directly or through intermediate entities formed or
7 established specifically for the program's purposes;
- 8 (17) Enter into agreements or other transactions with any
9 federal, state, or county agency to implement the
10 purposes of this subpart;
- 11 (18) Contract with other entities, public or private, for
12 the provision of all or a portion of the services
13 necessary for the management and operation of the
14 program. The university may use all appropriations,
15 grants, contractual reimbursements, and all other
16 funds made available for the purposes of the program
17 to pay for the proper general expenses of the program;
- 18 (19) Appear on its own behalf before state, county, or
19 federal agencies on matters relating to the program;
- 20 (20) Establish a risk management program appropriate to the
21 activities of the program, which may include, among

1 other components, the purchase of insurance,
2 participation in the State's risk management program,
3 or retention and management of risks;
4 (21) Appoint advisory committees as deemed necessary; and
5 (22) Exercise any other powers of a corporation organized
6 under the laws of the State not inconsistent with the
7 purpose and intent of the program.

8 **§304A- University innovation and commercialization**

9 **initiative special fund.** (a) There is established the
10 university innovation and commercialization initiative special
11 fund into which shall be deposited, and shall not be considered
12 part of the general fund, all funds consistent with the purposes
13 of this subpart that are:

- 14 (1) Appropriated by the legislature;
- 15 (2) Received as repayments of loans;
- 16 (3) Earned on investments;
- 17 (4) Received pursuant to a venture agreement;
- 18 (5) Received as royalties;
- 19 (6) Received as premiums or fees charged by the
20 university; or
- 21 (7) Otherwise received by the program.



1 (b) Revenues deposited into the special fund may be
2 expended by the University of Hawaii for all costs and expenses
3 associated with the operation of the innovation and
4 commercialization initiative program without regard to chapters
5 76, 78, 89, 102, 103, and 103D. Revenues not expended as
6 provided in this section may be transferred to other university
7 funds to be expended for the general benefit of the university.

8 **§304A- Confidentiality of trade secrets; disclosure of**
9 **financial information.** Any documents or data made or received
10 by the University of Hawaii under this subpart, to the extent
11 that the material or data consist of trade secrets or
12 confidential commercial or financial information that may be
13 withheld from public disclosure under chapter 92F, shall not be
14 publicly disclosed; provided that if the university purchases a
15 qualified security, the non-confidential commercial and
16 financial information regarding that security shall be a public
17 record of the university. The board of regents, or any
18 subcommittee of the board, may hold an executive session as
19 provided in section 92-4 to discuss trade secrets or
20 confidential commercial or financial information that may be
21 withheld under chapter 92F.



1 §304A- Limitation on liability. (a) The University of
2 Hawaii shall not assume or otherwise promise to answer for the
3 debt, contract, or liability of any other person or private
4 entity involved with the innovation and commercialization
5 initiative program.

6 (b) Notwithstanding chapters 661 and 662, or any other law
7 to the contrary, nothing in this subpart shall create an
8 obligation, debt, claim, cause of action, claim for relief,
9 charge, or any other liability of any kind whatsoever in favor
10 of any person or entity, without regard to whether that person
11 or entity receives any benefits under this subpart, against the
12 State or its officers and employees. The State and its officers
13 and employees shall not be liable for the results of any
14 investment, purchase of securities, loan, or other assistance
15 provided pursuant to this subpart. Nothing in this subpart
16 shall be construed as authorizing any claim against the
17 University of Hawaii in excess of any note, loan, or other
18 specific indebtedness incurred by the university or in excess of
19 any insurance policy acquired for the university or its
20 employees.



1 **§304A-** **Preservation of governmental immunity; full faith**
2 **and credit.** No contract, agreement, or statement made by the
3 University of Hawaii pursuant to this subpart shall constitute
4 an express or implied waiver by the university of its
5 governmental or sovereign immunity as a public agency of the
6 State, nor shall the contracts, agreements, or statements
7 constitute an express or implied acceptance of liabilities in
8 excess of liabilities allowable under applicable governmental
9 immunity laws. No activity conducted by the university or
10 agreement entered into pursuant to this subpart shall be deemed
11 a pledge of the full faith and credit of the State.

12 **§304A-** **Cooperation with the University of Hawaii by**
13 **state agencies.** Every state agency may render services to the
14 University of Hawaii upon the university's request for any
15 purpose related to this subpart.

16 **§304A-** **Construction of subpart.** Other state laws,
17 including without limitation the state code of ethics, shall be
18 applied and construed on balance in recognition of the public
19 benefits created and state interests advanced by the activities
20 conducted by the University of Hawaii pursuant to this subpart.

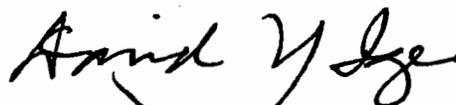


1 §304A- Biennial report. No later than twenty days prior
2 to the convening of the regular session of each odd-numbered
3 year, the University of Hawaii shall submit a report to the
4 legislature concerning:

- 5 (1) All funds deposited into the university innovation and
6 commercialization initiative special fund and a
7 detailed description of the use of those funds; and
- 8 (2) Coordinated efforts between the innovation and
9 commercialization initiative program and other state
10 agencies, including the high technology development
11 corporation, the Hawaii strategic development
12 corporation, and the Hawaii state energy office, to
13 move the State's innovation goals forward, and to more
14 efficiently and effectively utilize resources to
15 achieve these outcomes."

16 SECTION 3. This Act shall take effect on July 1, 2017, and
17 shall be repealed on June 30, 2021.

APPROVED this 19 day of JUN, 2017



GOVERNOR OF THE STATE OF HAWAII



HB No. 847, HD 1, SD 1, CD 1

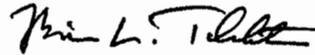
THE HOUSE OF REPRESENTATIVES OF THE STATE OF HAWAII

Date: May 2, 2017
Honolulu, Hawaii

We hereby certify that the above-referenced Bill on this day passed Final Reading in the House of Representatives of the Twenty-Ninth Legislature of the State of Hawaii, Regular Session of 2017.



Joseph M. Souki
Speaker
House of Representatives



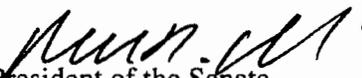
Brian L. Takeshita
Chief Clerk
House of Representatives

H.B. No. 847, H.D. 1, S.D. 1, C.D. 1

THE SENATE OF THE STATE OF HAWAII

Date: May 2, 2017
Honolulu, Hawaii 96813

We hereby certify that the foregoing Bill this day passed Final Reading in the
Senate of the Twenty-ninth Legislature of the State of Hawaii, Regular Session of 2017.


President of the Senate


Clerk of the Senate