
A BILL FOR AN ACT

RELATING TO THE 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 statewide concern to promote the economic health and diversify
3 the workforce opportunities of the State. The legislature
4 further finds that transforming ideas and concepts arising from
5 basic and applied research conducted at the University of
6 Hawaii, the sole public institution of higher education for this
7 State, into commercially viable and sustainable products and
8 businesses will contribute to economic health and workforce
9 diversification. Commercialization of intellectual property
10 created at or by the University thus achieves a public purpose
11 and benefits the 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 one of the core functions of the university is to
4 conduct basic and applied research, the university is uniquely
5 positioned to identify promising innovations and new discoveries
6 arising from university research. For inventions that show
7 commercial potential, the university can bring to bear the
8 educational resources from its various professional schools such
9 as business, law, and engineering to provide focused
10 instruction, expert mentorship, practical guidance, and advanced
11 training in business development. A systematic program of
12 support in the early stages of commercialization is essential to
13 promote viable businesses and sustainable employment
14 opportunities. Education and instruction are integral
15 components of the university's core mission, and applying
16 university resources to support the commercialization of
17 inventions and concepts is a proper use of public resources.

18 The legislature further finds that an impediment to the
19 effective transformation of university innovation into
20 commercial products and viable businesses is the lack of clear
21 and express legal authority to frame and support the



1 university's technology transfer programs. The lack of express
2 statutory authority for these commercialization and technology
3 transfer activities sponsored by the university creates business
4 uncertainty that deters private interests from fully engaging in
5 collaborative efforts promoted by the university. The lack of
6 express authority for the technology transfer programs may also
7 deter university faculty or students from seeking and actively
8 participating in the programs.

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



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

4 " . INNOVATION AND COMMERCIALIZATION INITIATIVE

5 **§304A-A Definitions.** As used in this subpart, unless the
6 context otherwise requires:

7 "Program" means the innovation and commercialization
8 program established under section 304A-B.

9 **§304A-B Innovation and commercialization initiative**
10 **program; establishment.** There is established within the
11 University of Hawaii an innovation and commercialization
12 initiative program under the direction of the vice president for
13 research and innovation.

14 **§304A-C Innovation and commercialization initiative**
15 **implementation.** The university may promote, sponsor, and
16 participate in the transformation of the products of its
17 research and instructional activities into viable economic
18 enterprises, and may create, finance, and participate in
19 organizations that contribute to economic development and
20 workforce diversification of the State using university research



1 and university personnel. The university, without limitation
2 may:

- 3 (1) Adopt policies and management procedures to carry out
4 the purposes of the program;
- 5 (2) Contribute equity, loan funds, or participate directly
6 or indirectly to finance concepts or proposals that
7 are likely to lead to viable businesses, economic
8 development, or workforce opportunities based on
9 university research;
- 10 (3) Enter into contracts and other appropriate
11 arrangements with start-up ventures to provide loans,
12 initial and expansion capital, and other forms of
13 financial assistance;
- 14 (4) Solicit, evaluate, and assist in the preparation,
15 drafting, and refinement of business plans and
16 proposals;
- 17 (5) Provide advice, instruction, training, and technical
18 and marketing assistance to support and promote the
19 enterprises in which the university invests;



- 1 (6) Develop, coordinate, and deliver instruction,
2 training, and outreach programs to build and maintain
3 the capacity to sustain these economic enterprises;
- 4 (7) Implement specialized programs designed to encourage
5 the development of new products, businesses, and
6 markets;
- 7 (8) Prepare, publish, and distribute technical studies,
8 reports, bulletins, and other materials consistent
9 with customary standards of university publications,
10 subject to the maintenance and respect for
11 confidentiality of client proprietary information;
- 12 (9) Organize, sponsor, and participate in conferences,
13 workshops, seminars, and other educational activity
14 relating to the formation and financial viability of
15 businesses that use university research products or
16 university personnel;
- 17 (10) Provide and pay for advisory or consulting services
18 and technical, managerial, and marketing assistance,
19 support, and promotion to carry out the purposes of
20 this subpart;
- 21 (11) Acquire, hold, and sell qualified securities;



1 (12) Consent, subject to the provisions of any contract
2 with noteholders or bondholders, whenever the
3 university deems it necessary or desirable in the
4 fulfillment of the purposes of this subpart, to the
5 modification, with respect to rate of interest, time
6 of payment of any installment of principal or
7 interest, or any other terms, of any contract or
8 agreement of any kind to which the university is a
9 party;

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

18 (14) Invest any funds held in reserves or sinking funds, or
19 any funds not required for immediate disbursement, in
20 investments as may be lawful for fiduciaries in the
21 State;



1 (15) Acquire real property, or an interest therein, by
2 purchase or foreclosure, where that acquisition is
3 necessary or appropriate to protect or secure any
4 investment or loan in which the university has an
5 interest; sell, transfer, and convey the property to a
6 buyer and, if the sale, transfer, or conveyance cannot
7 be effected with reasonable promptness or at a
8 reasonable price, to lease the property;

9 (16) Consistent with the purposes of the program, acquire,
10 own, hold, dispose of, and encumber personal property
11 of any nature, or any interest therein, either
12 directly or through intermediate entities formed or
13 established specifically for those purposes;

14 (17) Enter into agreements or other transactions with any
15 federal, state, or county agency to implement the
16 purposes of this subpart;

17 (18) Contract with other entities, public or private, for
18 the provision of all or a portion of the services
19 necessary for the management and operation of the
20 innovation and commercialization initiative program.

21 The university may use all appropriations, grants,



1 contractual reimbursements, and all other funds made
2 available for the purposes of the program to pay for
3 the proper general expenses of the program;

4 (19) Appear in its own behalf before state, county, or
5 federal agencies on matters relating to this program;

6 (20) Establish a risk management program appropriate to the
7 activities of the innovation and commercialization
8 initiative program, which may include, among other
9 components, purchase of insurance, participation in
10 the State's risk management program, or retention and
11 management of risks;

12 (21) Appoint advisory committees as deemed necessary;
13 provided that any advisory committee established
14 pursuant to this section shall not be deemed a "board"
15 subject to chapter 92; and

16 (22) Exercise any other powers of a corporation organized
17 under the laws of the State not inconsistent with the
18 purpose and intent of this program.

19 **§304A-D Confidentiality of trade secrets; disclosure of**
20 **financial information.** Any documents or data made or received
21 by the university under this subpart, to the extent that the



1 material or data consist of trade secrets or confidential
2 commercial or financial information that may be withheld from
3 public disclosure under chapter 92F, shall not be publicly
4 disclosed; provided that, if the university purchases a
5 qualified security, the nonconfidential commercial and financial
6 information regarding that security shall be a public record of
7 the university. The board of regents, or any subcommittee of
8 the board, may hold an executive meeting as provided in section
9 92-4, to discuss trade secrets or confidential commercial or
10 financial information that may be withheld under chapter 92F.

11 **§304A-E Limitation on liability.** (a) The university
12 shall not assume or otherwise promise to answer for the debt,
13 contract, or liability of any other person or a private entity.

14 (b) Notwithstanding chapters 661 and 662, or any other law
15 to the contrary, nothing in this subpart shall create an
16 obligation, debt, claim, cause of action, claim for relief,
17 charge, or any other liability of any kind whatsoever in favor
18 of any person or entity, without regard to whether that person
19 or entity receives any benefits under this subpart, against the
20 State or its officers and employees. The State and its officers
21 and employees shall not be liable for the results of any



1 investment, purchase of securities, loan, or other assistance
2 provided pursuant to this subpart. Nothing in this subpart
3 shall be construed as authorizing any claim against the
4 university in excess of any note, loan, or other specific
5 indebtedness incurred by the university or in excess of any
6 insurance policy acquired for the university or its employees.

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

18 **§304A-G Cooperation with the University of Hawaii by state**
19 **agencies.** Every state agency may render services to the
20 university upon the request of the university.



1 **§304A-H Construction of subpart.** Other state laws,
2 including without limitation the state ethics code, shall be
3 applied and construed on balance in recognition of the public
4 benefits created and state interests advanced by university
5 activities conducted pursuant to this subpart.

6 **§304A-I Biennial report.** Not later than twenty days prior
7 to the convening of each regular session during an odd-numbered
8 year, the University of Hawaii shall submit an annual report to
9 the legislature concerning:

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



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

4 "§304A- University innovation and commercialization
5 initiative special fund. (a) There is established the
6 university innovation and commercialization initiative special
7 fund into which shall be deposited and not be considered part of
8 the general fund all funds consistent with the purposes of this
9 subpart that are:

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

18 (b) Revenues deposited into this special fund may be
19 expended by the university for all costs and expenses associated
20 with the operation of this program without regard to chapters
21 76, 78, 89, 102, 103, and 103D. Revenues not expended as



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1 provided in this section may be transferred to other university
2 funds to be expended for the general benefit of the university."

3 SECTION 4. In codifying the new sections added by section
4 2 of this Act, the revisor of statutes shall substitute
5 appropriate section numbers for the letters used in designating
6 the new sections in this Act.

7 SECTION 5. New statutory material is underscored.

8 SECTION 6. This Act shall take effect on July 1, 2017.

9

INTRODUCED BY



JAN 19 2017



H.B. NO. 166

Report Title:

University of Hawaii; Hawaii Innovation Initiative

Description:

Authorizes UH to create, promote, and participate in new economic enterprises and expand workforce opportunities based on inventions and discoveries generated by or at the University.

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