THE SENATE
TWENTY-EIGHTH LEGISLATURE, 2016
STATE OF HAWAII

S.B. NO. 2943
S.D. 1

A BILL FOR AN ACT

RELATING TO THE UNIVERSITY OF HAWAII RESEARCH.

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

SECTION 1. The legislature finds that it is a matter of statewide concern to promote the economic health and diversity workforce opportunities of the State. The legislature further finds that the commercialization of intellectual property created by basic and applied research conducted at the University of Hawaii holds great promise to contribute to economic health and workforce diversification.

In the past, the legislature has authorized and provided public funds to support efforts by state agencies to promote entrepreneurial development, research commercialization, and access to startup investment capital. These efforts include, for example, the HI growth initiative, the venture accelerator funding programs, and other projects sponsored by the Hawaii strategic development corporation.

Because one of the core functions of the university is conducting basic and applied research, the legislature finds that the university may significantly contribute to the creation of a statewide "eco-system" of innovation by transforming
university-generated research into viable economic enterprises. The university is uniquely able to identify and assist in the creation and growth of innovative public-private business forms that draw upon the active participation of university-affiliated personnel and are based on university research products.

The legislature further finds that an impediment to the effective transfer of technology at the university is the lack of clear and express legal authority to frame its innovation initiatives. This lack of express authority for the university creates business uncertainty that deters private interests from engaging in collaborative efforts promoted by the university.

The purpose of this Act is to provide express authority to the university to engage in the types of economic promotion activities already conducted by other state agencies, and thereby facilitate the university's contribution of its research products and its affiliated personnel to the economic health and diversification of workforce opportunities in the State.

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

" . Innovation and Commercialization Initiative
§304A- Innovation and commercialization initiative; establishment. There is established within the University of Hawaii an innovation and commercialization initiative program under the direction of the vice president for research and innovation.

§304A- Innovation and commercialization initiative; implementation. The university may promote, sponsor, and participate in the transformation of the products of its research and instructional activities into viable economic enterprises, and may create, finance, and participate in organizations that contribute to economic development and workforce diversification of the State using university research and affiliated university personnel. For the implementation of the innovation and commercialization initiative program, the university may:

(1) Adopt internal policies during meetings held pursuant to chapter 92 and management procedures to carry out the purposes of this program;

(2) Contribute equity, loan funds, or participate directly or indirectly to finance concepts or proposals that are likely to lead to viable businesses, economic
development, or workforce opportunities based on university research;

(3) Enter into contracts and other appropriate arrangements with start-up ventures, including the provision of loans, initial and expansion capital, and other forms of financial assistance;

(4) Solicit, evaluate, and assist in the preparation, drafting, and refinement of business plans and proposals;

(5) Provide advice, instruction, training, and technical and marketing assistance, to support and promote the enterprises in which the university invests;

(6) Coordinate and deliver the university's education, instruction, training and outreach programs to build and maintain the capacity to sustain these economic enterprises;

(7) Implement specialized programs designed to encourage the development of new products, businesses, and markets;

(8) Prepare, publish, and distribute technical studies, reports, bulletins, and other materials consistent
with customary standards of university publication,
subject to the maintenance and respect for
confidentiality of client proprietary information;

(9) Organize, sponsor, and participate in conferences,
workshops, seminars, and other educational activity
relating to the formation and financial viability of
businesses that use university research products or
university affiliated personnel;

(10) Provide and pay for advisory or consulting services
and technical, managerial, and marketing assistance,
support, and promotion to carry out the purposes of
this subpart;

(11) Acquire, hold, and sell qualified securities;

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

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

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

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

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

(17) Enter into agreements or other transactions with any federal, state, or county agency to implement this subpart;

(18) Contract with others, public or private, for the provision of all or a portion of the services necessary for the management and operation of the program. The university may use all appropriations, grants, contractual reimbursements, and all other funds made available for the purposes of the program to pay for the proper general expenses of the program;

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

(20) Establish a risk management program appropriate to the activities of this program that may include, among
other components, purchase of insurance, participation in the State's risk management program, or retention and management of risks;

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

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

§304A- University innovation and commercialization initiative special fund. (a) There is established the university innovation and commercialization initiative special fund into which shall be deposited moneys:

(1) Appropriated by the legislature;
(2) Received as repayments of loans;
(3) Earned on investments;
(4) Received pursuant to a venture agreement;
(5) Received as royalties;
(6) Received as premiums or fees charged by the university; and
(7) Otherwise received by the program.

(b) Revenues deposited into this special fund may be expended by the university for all costs and expenses associated with the operation of this program without regard to chapters 76, 78, 89, 102, 103, and 103D. Revenues not expended as provided in this section may be transferred to other university funds to be expended for the general benefit of the university.

§304A- Confidentiality of trade secrets; disclosure of financial information. Any documents or data made or received by the university under this subpart, to the extent that the material or data consist of trade secrets or confidential commercial or financial information that may be withheld from public disclosure under chapter 92F, shall not be publicly disclosed; provided that, if the university purchases a qualified security, the non-confidential commercial and financial information regarding that security shall be a public record of the university. The board of regents, or any subcommittee of the board, may hold an executive session as provided in section 92-4 to discuss trade secrets or confidential commercial or financial information that may be withheld under chapter 92F.
§304A- Limitation on liability. (a) The university shall not assume or otherwise promise to answer for the debt, contract, or liability of any other person or a private entity.

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

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

§304A- Cooperation with the University of Hawaii by state agencies. Every state agency may render services to the university upon its request.

§304A- Construction of subpart. In the application of other laws of the State to activities conducted pursuant to this subpart, such laws shall be construed and balanced to effect the purpose and intent of this program."

SECTION 3. This Act shall take effect on July 1, 2016.
Report Title:
University of Hawaii; Hawaii Innovation and Commercialization Initiative

Description:
Provides express legal authority to enable the University of Hawaii to create, promote, and participate in new economic enterprises that use university research and provide workforce opportunities for affiliated university personnel. (SD1)

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