



# UNIVERSITY OF HAWAII SYSTEM

## Legislative Testimony

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Testimony Presented Before the  
House Committee on Higher Education  
Tuesday, March 17, 2015 at 2:00 pm

by  
Vassilis L. Syrmos  
Vice President for Research and Innovation  
University of Hawai'i

### SB 1144 SD2 – RELATING TO TECHNOLOGY TRANSFER AT THE UNIVERSITY OF HAWAII

Chair Choy, Vice Chair Ichiyama, and members of the committee:

The University of Hawai'i supports this measure to facilitate the University's ability to structure complex arrangements with private sector organizations, including various types of joint ventures where UH faculty may have overlapping responsibilities, to promote the commercialization of research ideas generated on its campuses.

This commercialization (often called "technology transfer") is designed to strengthen economies by getting new ideas, inventions and processes developed in universities -- most often with encouragement and funding support by the federal government, to the private sector as quickly as possible.

Technology transfer occurs throughout the nation at other universities. It is a vital component to the UH's efforts in the Hawai'i Innovation Initiative, a partnership with local businesses to diversify the state's economy. The University of Hawai'i appreciates the Legislature's acknowledgement of the state's interest in the first section of this measure.

As drafted, this version of the measure provides a "bright line" exemption from the State Ethics Code for technology transfer activities at UH -- provided that the activities comply with the University's regulatory framework and compliance programs.

The University understands that the draft is intended to provide a five-year trial period for the exemption. However, to allow for a more reasonable "ramp up" period, UH would like to request that the initial trial period be set for 10 years.

The University of Hawai'i will work with the State Ethics Commission staff and with the Department of the Attorney General to resolve the legal concerns they may raise with SB 1144 SD2.

Thank you for your consideration.



# HAWAII STATE ETHICS COMMISSION

State of Hawaii • Bishop Square, 1001 Bishop Street, ASB Tower 970 • Honolulu, Hawaii 96813

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March 17, 2015

The Honorable Isaac W. Choy, Chair  
The Honorable Linda Ichiyama, Vice Chair  
Honorable Members  
House Committee on Higher Education  
Hawaii State Capitol, Room 327  
415 South Beretania Street  
Honolulu, Hawaii 96813

Re: **Testimony on S.B. No. 1144, S.D. 2, Relating to  
Technology Transfer at the University of Hawaii**

Hearing: March 17, 2015, 2:00 p.m.  
State Capitol, Conference Room 309

The Hawaii State Ethics Commission (“Commission”) opposes S.B. No. 1144, S.D. 2, Relating to Technology Transfer at the University of Hawaii (“University”).

S.B. No. 1144, S.D. 2, amends the State Ethics Code, Hawaii Revised Statutes chapter 84, to exempt University “faculty, professional and administrative staff, executives, and managers . . . who are engaged in technology transfer activities” from the application of the State Ethics Code. Thus, this bill creates a blanket exemption from the State Ethics Code for broad categories of University employees. Such an exemption raises serious constitutional concerns. The exemption also raises concerns about whether exempting University employees from the standards of conduct to which other state employees are required to adhere is consistent with the legislative purpose underlying the State Ethics Code, i.e., to preserve public confidence in state employees.<sup>1</sup>

To ensure that public officers and employees exhibit the highest standards of ethical conduct, Article XIV of the State Constitution mandates the application of the State Ethics Code to employees of the State and further mandates that the responsibility for administering the State Ethics Code rests with the Commission. S.B. No. 1144, S.D. 2, appears to contravene this constitutional mandate by exempting University employees from the State Ethics Code and removing these employees from the jurisdiction of the Commission.

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<sup>1</sup> HRS chapter 84, Preamble.

The Honorable Isaac W. Choy, Chair  
The Honorable Linda Ichiyama, Vice Chair  
Honorable Members  
House Committee on Higher Education  
March 17, 2015  
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Even if the exemption for the University employees is constitutional, the bill is directly contrary to the fundamental and express purpose of the State Ethics Code: to preserve public confidence in state employees. S.B. No. 1144, S.D. 2, states that its purpose is, “to clarify the application of the state ethics code to allow technology transfer activities sponsored by the University of Hawaii.” As written, however, the bill exempts University employees from all ethics laws even when their actions are completely unrelated to University-sponsored technology transfer activities. For example, under this bill, a University employee may use state time, equipment, and facilities to sell real estate or Amway products, may coerce subordinate employees into campaigning for a political candidate, and may award a state contract to the employee’s spouse for work unrelated to technology transfer activities. All of these activities are prohibited by the State Ethics Code, but would be permissible under this bill. In the Commission’s opinion, allowing University employees to take those types of actions is inconsistent with the State Ethics Code’s stated purpose.

Although the bill appears to attempt to “address” the concern by requiring the University’s technology transfer program to incorporate “best practices for ethical research principles,” the Commission does not understand those “principles” to be similar to the minimum standards of conduct contained in the State Ethics Code. For example, the “best practices for ethical research principles” may involve the “ethical” treatment of animals used for research purpose and may not relate to conflicts of interest between the employee’s University duties and the employee’s outside interests. At a minimum, the University must be required to adopt standards of conduct, similar to those provisions in the State Ethics Code, to be consistent with the Constitutional and statutory mandates that employees must adhere to certain minimum standards of conduct to preserve public confidence.

Finally, while the University’s technology transfer activities may provide important State benefits, other agencies and programs also conduct activities that provide important benefits to the State. Creating an ethics exemption for the University, as provided by this bill, sets a precedent that will likely prompt other agencies to seek similar ethics exemptions for their programs from the Legislature. The Commission respectfully suggests that the Legislature must remain mindful of the State constitutional mandate that public officers and employees must exhibit the highest standards of ethical conduct. Creating legislative exemptions from the State Ethics Code is contrary to this mandate.

For the reasons stated above, we oppose S.B. No. 1144, S.D. 2. If the Committee is inclined to pass the bill, the Commission strongly recommends that the Committee seek advice from the Department of the Attorney General as to whether the exemption is consistent with Article XIV of the State Constitution.



**Testimony to the House Committee on Higher Education**

**March 17, 2015**

**2:00 p.m.**

**Conference Room 309**

**RE: RELATING TO TECHNOLOGY TRANSFER AT THE UNIVERSITY OF HAWAII –  
SENATE BILL 1144 SD2**

Chair Choy, Vice Chair Ichiyama and Members of the Committee:

My name is Gary Kai and I am the Executive Director of the Hawaii Business Roundtable. The Hawaii Business Roundtable fully supports Senate Bill 1144, SD2 relating to Technology Transfer at the University of Hawaii. The bill clarifies the application of the State Ethics Code to technology transfer arrangements supported by the University of Hawaii.

The Hawaii Business Roundtable believes that a strong research and innovation sector led by the University of Hawaii can be a large and important magnet for new money and new fields of job growth in Hawai'i. The ability to transfer research into commercial opportunities is a key to that growth. It is a vital component of the creation of jobs in the local economies of many universities across the country and we believe it could be done here in Hawaii.

We realize that there must be a well-articulated policy to insure the balance between the partnership arrangements and the benefits to the public. We are confident that the University of Hawaii and the State Ethics Commission will be able to strike that balance.

This legislation is one very good example of creating an environment to grow our Research and Innovation Economy which is critical for the future of our young people. It provides them with the choice to live and work in their island home -- and the opportunity to come home after gaining experience on the mainland or abroad. Furthermore it helps to improve the quality of their lives and the lives of all who live here.

Thank you very much for the opportunity to testify.

Gary K. Kai, Executive Director  
Hawaii Business Roundtable



# Chamber of Commerce HAWAII

*The Voice of Business*

**Testimony to the House Committee on Higher Education  
Tuesday, March 17, 2015 at 2:00 P.M.  
Conference Room 309, State Capitol**

**LATE**

**RE: SENATE BILL 1144 SD2 RELATING TO TECHNOLOGY TRANSFER AT THE  
UNIVERSITY OF HAWAII**

Chair Choy, Vice Chair Ichiyama, and Members of the Committee:

The Chamber of Commerce of Hawaii ("The Chamber") **supports** SB 1144 SD2, which clarifies application of State Ethics Code to University of Hawaii technology transfer activities, provided that the activities comport with a regulatory framework and research compliance program approved by the board of regents of the University of Hawaii and requires the board of regents to submit a written report to the legislature regarding its technology transfer activity regulatory program prior to the regular session of 2016.

The Chamber is Hawaii's leading statewide business advocacy organization, representing about 1,000 businesses. Approximately 80% of our members are small businesses with less than 20 employees. As the "Voice of Business" in Hawaii, the organization works on behalf of members and the entire business community to improve the state's economic climate and to foster positive action on issues of common concern.

The Chamber supports SB 1144 SD2 as it would help expedite the commercialization of research from the University of Hawaii to provide information that would strengthen the local economy. This bill helps remedy many obstacles that currently exist from broad conflict of interest, fair treatment, and employment restrictions. Clarifying the State Ethics Code would prevent the deterrence of an efficient technology transfer.

Thank you for the opportunity to testify.