



UNIVERSITY OF HAWAII SYSTEM

Legislative Testimony

Testimony Presented Before the
Senate Committee on Higher Education
Tuesday, March 14, 2017 at 1:15 p.m.

by

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

HB 425 HD1 – RELATING TO TECHNOLOGY TRANSFER AT THE UNIVERSITY OF HAWAII

Chair Kahele, Vice Chair Kidani, and members of the Committee:

The University of Hawai'i (UH) supports this measure.

The purpose of this bill is to amend the Hawai'i State Ethics Code to reflect current-day realities of technology transfer activities, to acknowledge UH's unique mission as the state's largest publicly-supported research enterprise, and to provide more certainty and clarity in the application of the Ethics Code by enacting specific, written guidelines -- rather than rely on discretionary interpretation and negotiation of parties who have an interest in the activity.

A strategic goal of UH is to grow its portfolio of sponsored research, identify those discoveries that have promising commercial potential, and develop and take those inventions to market. This process of moving ideas from the laboratory bench to the commercial markets is generally referred to as "technology transfer."

Technology transfer emanating from UH research benefits the state in several ways: by diversifying employment opportunities in the state; by creating a more robust "innovation" sector of the economy; by introducing better performing products, devices, or methods to the public; and by providing a potential economic return to the public resources committed to UH.

Technology transfer occurs throughout the nation at other universities. It is vital that UH remains competitive with its peer institutions in attracting extramural research funds, in attracting or retaining talented faculty and researchers, and in offering instruction and curriculum for those students or faculty wishing commercialize research. Other states have enacted exemptions or carve-outs from their respective Ethics Code to address this reality.

In order to successfully commercialize the research discoveries, UH and its faculty inventors often need to partner with people or organizations in the private sector that possess the skill, know-how, entrepreneurial experience and resources, including access to capital. In joint public-private ventures, the private parties will share in any new economic value created by the commercialization.

A significant deterrent for full participation by interested parties, however, is whether such technology transfer activities at UH are permissible under the State Ethics Code, because such technology transfer activities might be viewed as impermissibly using public resources to promote a private business or to confer upon the UH faculty inventor – who is also a state employee -- an unfair, personal benefit.

The University of Hawai'i currently enjoys a productive, professional relationship with the Ethics Commission staff. However, it is too important to leave the treatment of UH technology transfer under the Ethics Code to the personal/professional relationships that currently exist.

The University of Hawai'i strongly prefers that state government support for UH technology transfer activities be more forthright, transparent and more permanently set forth in appropriate legislation. This measure provides clear guidance to UH, to its faculty and research staff, and to potential private partners by exempting technology transfer activities from selected provisions of the State Ethics Code.

Thank you for the opportunity to testify in support.



HAWAII STATE ETHICS COMMISSION

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

Committee: Committee on Higher Education
Bill Number: H.B. 425, HD1
Hearing Date/Time: Tuesday, March 14, 2017, 1:15 p.m.
Re: Testimony of the Hawaii State Ethics Commission **OPPOSING**
H.B. 425, HD1 Relating to Technology Transfer at the University
of Hawaii

Dear Chair Kahele and Committee Members:

The Hawaii State Ethics Commission (“Commission”) **strongly opposes** H.B. 425, HD1, which seeks to exempt technology transfer activities from the scope of the Ethics Code, Hawaii Revised Statutes (“HRS”) chapter 84.

This measure is substantively identical to S.B. 138, which this Committee heard (and deferred) earlier this session. A related measure on technology transfer, H.B. 847, has been referred to this Committee; the Ethics Commission respectfully suggests that, if this Committee wishes to enact legislation relating to technology transfer, the Committee defer H.B. 425 and instead consider H.B.847.¹

The Ethics Commission fully supports the University’s efforts to take advantage of its employees’ outstanding research; as the saying goes, a rising tide lifts all boats, and the University and its employees ought to be encouraged to promote (and profit from) their many accomplishments. So long as the University establishes safeguards to ensure that the University’s interests are adequately protected, these activities are already permitted by the Ethics Code.²

¹ H.B. 847 is substantively identical to S.B. 137, which this Committee approved and which the Ethics Commission does not oppose; S.B. 137 will be heard by the House Committee on Higher Education later today.

² Indeed, more than twenty years ago, the Commission issued an Advisory Opinion stating:

[W]hen the State of Hawaii stood to benefit from arrangements in which an employee acquired a financial interest subject to his official action, or took official action directly affecting that interest, or assisted or represented a business on a matter in which the employee had participated or would participate, or assisted or represented that business before the agency of which he or she was an employee, the conflicts of interests law did not per se prohibit such arrangements, so long as the State’s interest was adequately protected.

See Hawaii State Ethics Commission, Advisory Opinion No. 1992-2 at 5-6, available at <http://files.hawaii.gov/ethics/advice/AO1992-2.pdf>. The Commission reviewed several technology transfer proposals and concluded that they satisfied the Ethics Code because, among other things, they were subject to “strict oversight and review by appropriate State

However, the Commission opposes any efforts to exempt University employees and/or broad categories of activities from the Ethics Code itself. These exemptions contravene Hawaii's constitutional mandate that public officers and employees exhibit the highest standards of ethical conduct.³ This bill would set a dangerous precedent, as individual agencies or programs may seek to carve out exceptions to the Ethics Code (thus taking a strong regulatory framework to promote integrity in state government and weakening it through a series of exceptions).

This bill sends a message that certain state officials are too important to be bound by ethics laws. Recent national events, however, demonstrate the importance of ensuring that all government officials – at all levels of government – be held to uniform, fair, and reasonable ethical rules.

The Commission respectfully asks that the Committee defer this measure. Thank you for considering the Commission's testimony on H.B. 425, HD1.

Very truly yours,

Daniel Gluck
Executive Director and General Counsel

authorities for the purpose of insuring that [University employees'] official action would be directed toward the stated goals of the proposal." Id. at 8.

The Legislature intended that Advisory Opinions "be a source of reference for all persons concerned and contribute to a proper understanding of the code. These opinions should reflect the practical operation of the code and begin to develop a body of 'case law' on ethics." Conf. Comm. Rep. No. 16, in 1967 House Journal, at 856.

³ Hawaii Constitution, Art. XIV.

EST. 1988

HVCA

HAWAII VENTURE CAPITAL ASSOCIATION

Testimony Presented Before the
Senate Committee on Higher Education
Tuesday, March 13, 2017 at 1:15 p.m.

By
Melialani James
President
Hawaii Venture Capital Association (HVCA)

In Consideration of
HB 425 HD1 – Relating to technology transfer at the University of Hawaii

Chair Kaiali'i Kahele, Vice Chair Michelle N. Kidani, and members of the Committee:

The Hawaii Venture Capital Association (HVCA) respectfully submits testimony in **support** of HB 425 HD1 to clarify and modernize the application of state ethics principles set forth in the state ethics code to technology transfer activities sponsored by the University of Hawaii.

Since its founding in 1988, the Hawaii Venture Capital Association (HVCA) has stood as a nexus for entrepreneurs, capital foundation, and networking opportunities in Hawaii. Fostering entrepreneurship through education and exposure to prime members of our business community continues to be our goal as we strive to grow a vibrant and successful venture community.

UH has a significant amount of academic research that has viable commercial potential. Successful commercialization contributes directly to the State's economy, its academic and business reputation and to creating diverse, well-paying jobs and careers. In an effort to continue the momentum of building this innovation economy in Hawaii, the application of state ethics principles must be clarified and modernized to comport with the best practices of technology transfer programs at other universities to retain talent and innovation in Hawaii.

HVCA is committed to working with XLR8UH, and will actively connect newly formed companies to its wide network in order to maintain competitiveness and grow the industry. We fully agree on the relevance and importance of HB425 HD1.

Thank you for the opportunity to offer our testimony on this bill.



Testimony Presented Before the
Senate Committee on Higher Education
Tuesday, March 13, 2017 at 1:15 p.m.

By
Tarik Sultan
Managing Partner
Sultan Ventures

In Consideration of
HB 425 HD1 – RELATING TO TECHNOLOGY TRANSFER AT THE UNIVERSITY OF HAWAII

Chair Kaiali'i Kahele, Vice Chair Michelle N. Kidani, and members of the Committee:

Sultan Ventures respectfully submits testimony in **support** of HB 425 HD1 to clarify and modernize the application of state ethics principles set forth in the state ethics code to technology transfer activities sponsored by the University of Hawaii.

Sultan Ventures is a Hawaii-based boutique venture firm focusing on early stage startups and investments. As a startup catalyst, we provide pivotal resources via our powerful network of experts and investors. We work closely with innovative startups, and run the XLR8UH program in partnership with the University of Hawaii (UH), providing the hands-on expertise and access to capital needed to accelerate growth, as well as with investors, performing the diligence necessary to make strategic investment decisions.

We believe that by clearly allowing UH employees to ethically pursue commercialization of innovative research, our innovation economy will continue to grow. Through our work with the XLR8UH program, we see the impact that commercialization efforts can have on economic growth in our community.

Commercialization of innovative products will drive our innovation economy forward, leading to job creation, diversification of workforce opportunities, and further economic growth. It is essential that the application of state ethics principles to UH must be clarified and modernized to comport with the best practices of technology transfer programs at other universities for UH to remain competitive in the market. These efforts will continue to drive innovative research and entrepreneurial development throughout the university. We fully support this effort to continue the momentum of building this innovation economy and to retain talent and innovation in Hawaii.

We urge you to pass this legislation so that Hawaii can take its rightful place as a birthplace of innovation and provider of 21st century careers and jobs. We encourage you to visit both XLR8UH and Sultan Ventures and see first hand the entrepreneurial efforts underway in our state.

Thank you for the opportunity to provide testimony on this bill.



Testimony Presented Before the
Senate Committee on Higher Education
Tuesday, March 13, 2017 at 1:15 p.m.

By
Omar Sultan
Founder and Managing Partner
XLR8UH

In Consideration of
**HB 425, HD1 – RELATING TO TECHNOLOGY TRANSFER AT THE UNIVERSITY
OF HAWAII**

Chair Kaiali'i Kahele, Vice Chair Michelle N. Kidani, and members of the Committee:

XLR8UH respectfully submits testimony in support of HB 425 HD1 to clarify and modernize the application of state ethics principles set forth in the state ethics code to technology transfer activities sponsored by the University of Hawaii.

By clearly allowing University employees to ethically pursue commercialization of innovative research, our innovation economy will continue to grow. We have seen first hand through our program that commercialization efforts lead to job creation, diversification of workforce opportunities and economic growth.

With its undeniable strengths in ocean sciences, energy research, sustainable agriculture and astronomy; and its growing strength in cybersecurity and health sciences – the University of Hawaii has a significant amount of academic research that has viable commercial potential. Successful commercialization contributes directly to the State's economy, its academic and business reputation and to creating diverse, well-paying jobs and careers

In order to continue the momentum of building this innovation economy in Hawaii, the application of state ethics principles must be modernized to comport with the best practices of technology transfer programs at other universities. This will ultimately benefit Hawaii's innovation economy by retaining and attracting innovative research talent to the islands.

One of the first of its kind in the nation, XLR8UH is a public-private partnership with University of Hawaii through the Office of the Vice President for Research and Innovation and Honolulu-based Sultan Ventures, a local venture accelerator. Although just over 2 years old, XLR8UH is already a multiple award winning, venture accelerator program, nationally recognized by the

Small Business Association in 2015 and 2016 and the Economic Development Association in 2016 under the Department of Commerce Regional Innovation Strategies i6 Challenge, that makes small, targeted, high-impact investments to support startup creation, innovation and help turn technology into jobs.

We urge you to pass this legislation so that Hawaii can take its rightful place as a birthplace of innovation and provider of 21st century careers and jobs. We encourage you to visit both XLR8UH and Sultan Ventures and see first hand the entrepreneurial efforts underway in our state.

Thank you for the opportunity to provide testimony on this matter.



Senate Higher Education Committee
Chair Kaiali'i Kahele, Vice Chair Michelle Kidani

03/14/2017 at 1:15 PM in Room 414
HB425 HD1 – Relating to Technology Transfer at the University of Hawaii

TESTIMONY — OPPOSE
Corie Tanida, Executive Director, Common Cause Hawaii

Dear Chair Kahele, Vice Chair Kidani, and committee members:

Common Cause Hawaii opposes HB425 HD1 which would exempt technology transfer activities sponsored by the University of Hawaii from certain provisions of the State Ethics Code.

During the 1978 Constitutional Convention, the people of Hawaii directed the state to create the State Ethics Code to ensure that government officials and employees “exhibit the highest standards of ethical conduct”.¹ HB425 HD1 would create a large loophole in how our Ethics Code is applied which could erode the public’s trust in our government.

While we recognize the need to be able to innovate and capitalize on research, we question the need to create such broad exemptions to core provisions of our Ethics Code—confidential information, fair treatment, conflicts of interest, and post-employment restrictions—as the activities addressed in the bill are already permitted by the Ethics Code.

We encourage you to defer this bill, which prioritizes research commercialization over the public’s interest.

Thank you for the opportunity to offer testimony **opposing HB425 HD1**.

¹ Hawaii State Constitution. Article XIV. <http://lrbhawaii.org/con/conart14.html>



Testimony to the Senate Committee on Higher Education

March 14, 2017

1:15 p.m.

Conference Room 414

**RE: RELATING TO TECHNOLOGY TRANSFER AT THE UNIVERSITY OF HAWAII –
HOUSE BILL 425, HD1**

Chair Kahele, Vice Chair Kidani 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 House Bill 425, HD1, relating to Technology Transfer at the University of Hawaii. The bill clarifies that certain sections of the State Ethics Code shall not apply to technology transfer arrangements supported by the University of Hawaii.

The Hawaii Business Roundtable strongly 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 can be done here in Hawaii. We continue to support our innovation sector and its role in the growth of our economy.

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's Board of Regents will be able to develop a compliance program that will comply with applicable regulations.

This legislation is one very good example of growing 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