



UNIVERSITY OF HAWAI'I SYSTEM

TESTIMONY

H.B. 3069 Relating to the Use of Biological Resources; Benefit Sharing

Testimony Presented Before the
House Committee Economic Development & Business Concerns

February 2, 2006

By

James Gaines
Interim Vice President for Research
University of Hawaii

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Re: HB 3069 Relating to the Use of Biological Resources; Benefit Sharing

The University of Hawaii strongly supports this bill and offers suggestions for minor edits to its language.

In the most recent legislative sessions it has become clear to the members of this committee, and others, that the biological resources, especially the microbial resources, of the State of Hawaii, are a potentially valuable asset. Hawaii's biodiversity includes organisms that are among the rarest and most isolated in the world; some being found only in our state. With the University's cutting edge research in the life sciences and further investment in and development of a biotechnology industry in Hawaii, there is a great potential for profound economic and social benefits to all of the residents of our state.

However there is concern about the development of bio-based products ranging from pharmacological therapeutics to industrial enzymes from material collected from State lands and waters. This concern is well founded. A 2003 opinion from the Attorney General's office found that while the State may claim ownership of the genetic materials found on public lands,

"...legal title to biogenetic resources gathered from State public lands will not still be vested with the State if third persons were allowed to remove...the natural resource...without (the state) reserving title or retaining control of the resources or their biogenetic contents."

This bill allows the legislature to meet its constitutional duty to hold public lands and waters of Hawaii in a public trust for Native Hawaiians and the general public. The bill, if passed and enacted by the Department of Land and Natural Resources (DLNR), removes any uncertainty as to the ownership of legally permitted samples collected for research and development activities and provides a mechanism for the State to participate, through a number of means, in the commercialization of discoveries from Hawaii's rich biodiversity. Moreover, the bill removes a degree of risk from companies who may want to collaborate with the university, pursue discovery research or relocate in Hawaii, but were uncertain of the legal framework of conducting such work.

The University also supports the use of the United Nations Convention on Biodiversity as a model for the fair and equitable sharing of benefits between the state and the resource. This model has been shown to support the development of an R&D enterprise while promoting conservation and sustainable use of the resource. The public lands of Hawaii deserve no less.

Through this bill, the State acknowledges the value of its biodiversity and it behooves the State to provide the DLNR with adequate personnel and computer systems to accurately track and maintain records of permits and material. The University supports this investment especially in a year where surplus funds are available for such activities.

Regarding the language of the bill, the University offers the following edits:

- Sec 2, #4: add “without the prior written consent of the department.”
- Sec 2, #5: after biological resources add “its progeny, replicates, derivatives, modifications, and/or subsets, “

Thank you for the opportunity to testify on this measure.