
A BILL FOR AN ACT

RELATING TO THE STRUCTURE OF GOVERNMENT.

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

1 **PART I**

2 SECTION 1. The legislature finds that to be successful in
3 the twenty-first century global economy, Hawaii must position
4 itself as a leader in technology development, transfer, and
5 commercialization. Significant progress has been made in past
6 years through programs supported by federal and state
7 initiatives, such as programs administered by the Hawaii
8 technology development corporation, Hawaii strategic development
9 corporation, and Hawaii technology development venture.
10 However, the legislature believes that additional efforts are
11 required to move Hawaii's technology industry to achieve local
12 technology commercialization. Innovation in science and
13 technology fields will not only enable the State to succeed in
14 the global marketplace, but will also support the State's
15 sustainable economic development goals to include a viable and
16 vibrant technology and manufacturing labor force.



1 The purpose of this Act is to combine the resources,
2 duties, and responsibilities of the Hawaii technology
3 development corporation, Hawaii strategic development
4 corporation, and a newly-established Hawaii broadband office and
5 establish a new entity to be known as the Hawaii innovation
6 technology and research corporation to:

7 (1) Promote, develop, and expand Hawaii's innovation and
8 technology industry;

9 (2) Promote a more diverse economy that offers high
10 quality, knowledge-based jobs; and

11 (3) Develop policy and resource allocations to enable and
12 support start-up companies, sustain existing
13 companies, and attract companies to relocate or
14 establish offices in Hawaii.

15 **PART II**

16 SECTION 2. Chapter 206M, Hawaii Revised Statutes, is
17 amended by adding a new part to be appropriately designated and
18 to read as follows:

19 **"PART . STRATEGIC DEVELOPMENT PROGRAMS**

20 **A. General Provisions**



1 **§206M-A Hawaii innovation technology and research**
2 **corporation revolving fund.** There is established the Hawaii
3 innovation technology and research corporation revolving fund.
4 The following moneys shall be deposited into the Hawaii
5 innovation technology and research corporation revolving fund
6 and shall not be considered part of the general fund: all
7 moneys appropriated by the legislature, received as repayments
8 of loans, earned on investments, received pursuant to a venture
9 agreement, received as royalties, received as premiums or fees
10 charged by the corporation, or otherwise received by the
11 corporation.

12 **§206M-B Hydrogen investment capital special fund.** (a)
13 There shall be established the hydrogen investment capital
14 special fund, into which shall be deposited:
15 (1) Appropriations made by the legislature to the fund;
16 (2) All contributions from public or private partners;
17 (3) All interest earned on or accrued to moneys deposited
18 in the special fund; and
19 (4) Any other moneys made available to the special fund
20 from other sources.



1 (b) Moneys in the fund shall be expended by the
2 corporation:

3 (1) To provide seed capital for and venture capital
4 investments in private sector and federal projects for
5 research, development, testing, and implementation of
6 the Hawaii renewable hydrogen program, as set forth in
7 section 196-10; and

8 (2) For any other purpose deemed necessary to carry out
9 the purposes of section 196-10.

10 **§206M-C Contracts for services necessary for management**
11 **and operation of the corporation.** The corporation may contract
12 with others, public or private, for the provision of all or a
13 portion of the services necessary for the management and
14 operation of the corporation. The corporation may use all
15 appropriations, grants, contractual reimbursements, and all
16 other funds not appropriated for a designated purpose to pay for
17 the proper general expenses and to carry out the purposes of the
18 corporation.

19 **§206M-D Actions of the corporation; guidelines.** (a) All
20 actions taken by the corporation shall be necessary to achieve
21 the purposes and objectives of this part. The corporation shall



1 evaluate all programs after three years to determine their
2 effectiveness. The corporation shall establish rules to assure
3 equal opportunity to minority-owned businesses, and shall
4 encourage the development of minority-owned businesses. The
5 corporation shall support and encourage participation by Hawaii
6 companies in federal grant programs, such as the Small Business
7 Innovation Research Program.

8 (b) Financial participation shall be made on the condition
9 that the recipient of the assistance shall utilize the money to
10 assist economic development projects within the State that have
11 potential for creating new jobs or retaining current jobs within
12 the State.

13 (c) Financial participation by the corporation in private
14 financial investment funds shall be made with the provision that
15 the private fund shall make investments in Hawaii in amounts at
16 least equal to the amount of state participation.

17 (d) The corporation shall not make direct investments in
18 individual businesses except upon a two-thirds vote of the board
19 in each case considered. When deciding whether to enter into a
20 direct investment, the corporation shall consider whether:

21 (1) The project is economically sound;



- 1 (2) The project can be successfully completed;
- 2 (3) The project will promote economic diversification;
- 3 (4) The project is located in or will locate in the State
- 4 and has a reasonable potential to create desirable
- 5 employment opportunities for residents of the State;
- 6 (5) The project has been unable to obtain sufficient
- 7 funding on reasonable terms through ordinary means;
- 8 and
- 9 (6) The project can be partially financed through ordinary
- 10 means at reasonable terms.

11 The corporation shall not acquire securities to an extent that

12 would provide the corporation effective voting control of any

13 enterprise after giving effect to the conversion of all

14 outstanding convertible securities of the enterprise.

15 (e) Investments by the corporation to persons shall be

16 made on the basis of solicitation and a competitive technical

17 review process, subject to the availability of funds allocated

18 to the corporation for making investments. Investments by the

19 corporation shall not be subject to chapter 42F. Any

20 organization applying for an investment shall meet the following

21 standards:



- 1 (1) Have bylaws or policies that describe the manner in
2 which business is conducted and policies relating to
3 nepotism and management of potential conflict of
4 interest situations;
- 5 (2) Be licensed and accredited, as applicable, in
6 accordance with the requirements of federal, state,
7 and county governments;
- 8 (3) Comply with applicable federal and state laws
9 prohibiting discrimination against any person on the
10 basis of race, color, national origin, religion,
11 creed, sex, age, or physical handicap; and
- 12 (4) Comply with other requirements as the board may
13 prescribe.

14 **§206M-E Business and industry evaluation and priorities**
15 **for job opportunity and economic development.** The corporation
16 shall develop procedures to set priorities as to which types of
17 businesses and industries are most likely to provide significant
18 opportunities for economic development and diversification in
19 the State, consistent with the purposes of this part. This
20 evaluation shall take into account the guidelines provided by
21 the state plan for economic development. Based on these



1 findings, the corporation shall establish targets by which the
2 operations and programs of the corporation shall be guided.

3 **§206M-F Confidentiality of trade secrets or the like;**
4 **disclosure of financial information.** Notwithstanding chapter
5 92, 92F, or any other law to the contrary, any documents or data
6 made or received by any member or employee of the corporation,
7 to the extent that the material or data consist of trade
8 secrets, commercial or financial information regarding the
9 operation of any business conducted by an applicant for, or
10 recipient of, any form of assistance that the corporation is
11 empowered to render, or regarding the competitive position of
12 that applicant in a particular field of endeavor, shall not be a
13 public record; provided that if the corporation purchases a
14 qualified security from an applicant, the commercial and
15 financial information, excluding confidential business
16 information, shall be deemed to become a public record of the
17 corporation. If the information is made or received by any
18 member or employee of the corporation after the purchase of the
19 qualified security, it shall become a public record three years
20 from the date the information was made or received. Any
21 discussion or consideration of trade secrets or commercial or



1 financial information, shall be held by the board, or any
2 subcommittee of the board, in executive sessions closed to the
3 public; provided that the purpose of any such executive session
4 shall be set forth in the official minutes of the corporation
5 and business which is not related to that purpose shall not be
6 transacted, nor shall any vote be taken during the executive
7 sessions.

8 **§206M-G Requests for assistance from the corporation;**
9 **procedure.** (a) The board shall approve or disapprove requests
10 for assistance within ninety days of receiving a written
11 application. Upon written request by an applicant, the board
12 may reconsider its denial of an application for assistance or
13 may waive the ninety-day deadline for approving or disapproving
14 an application.

15 (b) Any person who submits any statement, report,
16 application, or other document to the corporation which is known
17 to the person to be false in any material respect shall be
18 guilty of a class C felony.

19 (c) The corporation may condition any assistance of any
20 type by placing restrictions on the recipient in regard to the
21 recipient's assets or indebtedness or in any other manner deemed



1 appropriate by the corporation. A recipient who accepts
2 assistance from the corporation shall be deemed to agree to be
3 bound by any conditions or restrictions imposed by the
4 corporation.

5 **§206M-H Private sector financial support.** Significant
6 private sector financial support shall be associated with any
7 economic development project for which the corporation provides
8 assistance.

9 **§206M-I Limitations on debt owed to the corporation.** Not
10 more than \$5,000,000 in financial assistance, excluding rights
11 and royalties under a venture capital agreement, shall be
12 provided to any one enterprise at any time. The direct
13 investments of the corporation shall not exceed five per cent of
14 the assets of the corporation, excluding rights and royalties
15 under a venture capital agreement; provided that by a two-thirds
16 vote of the board, this amount may be increased to a limit of
17 twenty-five per cent of the total assets of the corporation.

18 **§206M-J Limitation on liability.** Chapters 661 and 662 or
19 any other law to the contrary notwithstanding, nothing in this
20 part shall create an obligation, debt, claim, cause of action,
21 claim for relief, charge, or any other liability of any kind



1 whatsoever in favor of any person or entity, without regard to
2 whether that person or entity receives any benefits under this
3 part, against the State or its officers and employees. The
4 State and its officers and employees shall not be liable for the
5 results of any investment, purchase of securities, loan, or
6 other assistance provided pursuant to this part. Nothing in
7 this part shall be construed as authorizing any claim against
8 the corporation in excess of any note, loan, or other specific
9 indebtedness incurred by the corporation or in excess of any
10 insurance policy acquired for the corporation or its employees.

11 **§206M-K HI growth initiative; report to legislature.** The
12 corporation shall submit an annual report to the legislature no
13 later than twenty days prior to the convening of a regular
14 session on the specific annual outcome achieved through the
15 activities and expenditures of the HI growth initiative.

16 **§206M-L Annual audit.** The books and records of the
17 corporation shall be subject to an annual audit by an
18 independent auditor.

19 **§206M-M Cooperation with the corporation by state**
20 **agencies.** Every state agency may render services to the
21 corporation upon request of the corporation.



1 B. Program for Seed Capital Assistance

2 §206M-N Establishment. The corporation shall establish a
3 program for seed capital assistance.

4 §206M-O Seed capital investments. Subject to this
5 subpart, the corporation may invest in:

6 (1) A certified development company under sections 501 to
7 503 of the Small Business Investment Act of 1958 (15
8 U.S.C. 695 to 697) and the regulations adopted under
9 those sections;

10 (2) A small business investment company under the Small
11 Business Investment Act (15 U.S.C. 631 to 634, 636 to
12 649) and the regulations adopted under those sections;

13 (3) A minority enterprise small business investment
14 corporation or equivalent venture capital corporation;

15 (4) A similar entity that may leverage its capital under a
16 federal program; or

17 (5) A seed capital fund or partnership.

18 §206M-P Purposes and terms of investments. (a)

19 Investments may be used for any purpose consistent with the
20 purposes and objectives of this chapter, including but not
21 limited to:



- 1 (1) Developing a working prototype;
- 2 (2) Preparing a development plan;
- 3 (3) Performing an initial market analysis;
- 4 (4) Organizing a management team; and
- 5 (5) Any other purpose reasonably related to an economic
- 6 development project.

7 (b) Investments may be made on such terms and conditions
8 as the corporation shall determine to be reasonable,
9 appropriate, and consistent with the purposes and objectives of
10 this chapter.

11 C. Program for Venture Capital Assistance

12 **§206M-Q Establishment.** The corporation shall establish a
13 program for venture capital.

14 **§206M-R Venture capital investments.** Subject to this
15 subpart, the corporation may invest in:

- 16 (1) A certified development company under sections 501 to
17 503 of the Small Business Investment Act of 1958 (15
18 U.S.C. 695 to 697) and the regulations adopted under
19 those sections;



- 1 (2) A small business investment company under the Small
2 Business Investment Act (15 U.S.C. 631 to 634, 636 to
3 649) and the regulations adopted under those sections;
4 (3) A minority enterprise small business investment
5 corporation or equivalent venture capital corporation;
6 (4) A similar entity that may leverage its capital under a
7 federal program; or
8 (5) A venture capital fund or partnership.

9 **§206M-S Purposes and terms of investments. (a)**

10 Investments may be used for any purpose consistent with the
11 purposes and objectives of this chapter.

12 (b) Investments may be made on such terms and conditions
13 as the corporation shall determine to be reasonable,
14 appropriate, and consistent with the purposes and objectives of
15 this chapter.

16 **D. Program for Capital Access**

17 **§206M-T Establishment.** The corporation shall establish a
18 program for capital access.

19 **§206M-U Financial assistance.** The corporation, through
20 the program for capital access, may:



1 (1) Procure insurance, a guarantee, or a letter of credit
2 from any source for all or a part of a loan,
3 debenture, or lease of others, public or private, or a
4 revenue bond issue of the State or other entity or
5 authority authorized by law to issue revenue bonds;
6 and

7 (2) Procure insurance, a guarantee, or a letter of credit
8 for either a single loan, debenture, or lease or for
9 any combination of loans, debentures, or leases, or a
10 single revenue bond issue or for all or a part of any
11 combination of revenue bond issues.

12 **§206M-V Purposes and priorities required in the procuring**
13 **of insurance, loan guarantees, or letters of credit. (a)**
14 Insurance, guarantees, or letters of credit procured pursuant to
15 section 206M-U shall be procured only for economic development
16 projects within the State that are consistent with the purposes
17 and objectives of this chapter.

18 (b) The corporation shall give paramount priority in
19 procuring insurance, guarantees, and letters of credit to
20 economic development projects that have the greatest potential



1 for creating new jobs or retaining current jobs within the
2 State.

3 **§206M-W Conditions for procuring of insurance, loan**
4 **guarantees, or letters of credit.** (a) Insurance, guarantees,
5 or letters of credit shall not be procured pursuant to section
6 206M-U unless the corporation is assured that the loans,
7 debentures, or leases insured, or guaranteed, or for which
8 letters of credit are issued, shall be used to assist economic
9 development projects that also have significant private sector
10 financial support.

11 (b) Insurance, guarantees, or letters of credit may be
12 procured on such terms and conditions as the corporation, in its
13 sole discretion, shall determine to be reasonable, appropriate,
14 and consistent with the purposes and objectives of this chapter.

15 (c) The corporation shall charge the lender or the
16 borrower, or both, a fee or premium for procuring loan,
17 debenture, or lease insurance, guarantee, or a letter of credit.
18 Rules for premiums or fees shall be established by the
19 corporation.

20 **§206M-X Program for capital access participation**
21 **agreements.** The corporation shall enter into agreements with



1 lenders for participation in the program for capital access that
2 shall include but not be limited to:

- 3 (1) Authorization for the lender to determine, collect,
4 and transmit to the corporation a fee or premium
5 charge within a specified range established consistent
6 with the purposes and objectives of the corporation;
- 7 (2) Specification of whether the premium charge shall be
8 paid by the lender, the borrower, the corporation, or
9 by a combination thereof in specified proportions;
- 10 (3) The procedure by which a lender may make a claim upon
11 the corporation upon default by the borrower, and the
12 conditions under which a claim may be made; and
- 13 (4) The maximum amount of claims a lender may make upon
14 the corporation, which amount may be equal to or less
15 than the proportion of the total premiums contributed
16 by the corporation.

17 **§206M-Y Establishment of special funds to secure loan**
18 **insurance obligations; source of funds.** The corporation may
19 establish a special fund or funds for capital access into which
20 fees or premiums collected by the corporation are deposited.



1 E. Hawaii Technology Investment Program

2 §206M-Z Definitions. As used in this subpart:

3 "Biotechnology" means fundamental knowledge regarding the
4 function of biological systems from the macro level to the
5 molecular subatomic levels that has application to development
6 including the development of novel products, services,
7 technologies, and subtechnologies from insights gained from
8 research advances that add to that body of fundamental
9 knowledge.

10 "Computer data" means any representation of information,
11 knowledge, facts, concepts, or instructions that is being
12 prepared or has been prepared and is intended to be processed,
13 is being processed, or has been processed in a computer or
14 computer network.

15 "Computer program" means an ordered set of computer data
16 representing coded instructions or statements, that, when
17 executed by a computer, causes the computer to perform one or
18 more computer operations.

19 "Computer software" means computer data, a computer
20 program, or a set of computer programs, procedures, or
21 associated documentation concerned with the operation and



1 function of a computer system, and includes both systems and
2 application programs and subdivisions, such as assemblers,
3 compilers, routines, generators, and utility programs.

4 "Financial organization" means an organization authorized
5 to do business in Hawaii that is:

- 6 (1) Certified as an insurer by the insurance commissioner;
- 7 (2) Licensed or chartered as a financial institution by
8 the commissioner of financial institutions;
- 9 (3) Chartered by an agency of the federal government;
- 10 (4) Subject to the jurisdiction and regulation of the
11 federal Securities and Exchange Commission; or
- 12 (5) Any other entity otherwise authorized to do business
13 in the State that meets the requirements of this
14 subpart.

15 "Program" means the Hawaii technology investment program.

16 "Program manager" means a financial organization selected
17 by the corporation to manage the program.

18 "Qualified high technology business":

- 19 (1) Means a business, employing or owning capital or
20 property, or maintaining an office, in this State
21 that:



- 1 (A) Conducts more than fifty per cent of its
2 activities in performing qualified research in
3 this State; or
- 4 (B) Receives more than fifty per cent of its gross
5 income derived from qualified research; provided
6 that the income is received from:
- 7 (i) Products sold from, manufactured in, or
8 produced in the State; or
- 9 (ii) Services performed in this State; and
- 10 (2) Does not include:
- 11 (A) Any trade or business involving the performance
12 of services in the field of law, architecture,
13 accounting, actuarial science, consulting,
14 athletics, financial services, or brokerage
15 services;
- 16 (B) Any banking, insurance, financing, leasing,
17 rental, investing, or similar business; any
18 business involving the production or extraction
19 of products of a character with respect to which
20 a deduction is allowable under section 611 (with
21 respect to allowance of deduction for depletion),



- 1 613 (with respect to basis for percentage
2 depletion), or 613A (with respect to limitation
3 on percentage depleting in cases of oil and gas
4 wells) of the Internal Revenue Code;
- 5 (C) Any business operating a hotel, motel,
6 restaurant, or similar business; and
- 7 (D) Any trade or business involving a hospital, a
8 private office of a licensed health care
9 professional, a group practice of licensed health
10 care professionals, or a nursing home.

11 "Qualified research" means:

- 12 (1) The same as in section 41(d) of the Internal Revenue
13 Code;
- 14 (2) The development and design of computer software using
15 fourth generation or higher software development tools
16 or native programming languages to design and
17 construct unique and specific code to create
18 applications and design databases for sale or license;
19 or
- 20 (3) Biotechnology,



1 provided that more than fifty per cent of the business'
2 activities are qualified research.

3 **§206M-AA Formation of Hawaii technology investment**
4 **program.** (a) The corporation shall establish the Hawaii
5 technology investment program for the purpose of allowing
6 individual investors to contribute to the program to invest
7 venture capital in businesses in Hawaii.

8 (b) The corporation may implement the Hawaii technology
9 investment program through a regulated investment company under
10 the terms and conditions established by this section. The
11 corporation may make changes to the program as required for
12 participants to obtain the federal and state income tax benefits
13 or treatment provided by sections 851 to 855 of the federal
14 Internal Revenue Code of 1986, as amended.

15 The corporation may establish a program in which the
16 dividends distributed by the regulated investment company are
17 exempt from income taxation under chapter 235. If the
18 corporation establishes a program that is proposed to be exempt
19 from income taxation under chapter 235, it shall furnish
20 sufficient information and notify the department of taxation and
21 investors of the tax exempt status of that program.



1 (c) The corporation may implement the program through the
2 use of financial organizations as program managers. Under the
3 program, individuals may establish accounts directly with a
4 program manager.

5 (d) The corporation may solicit proposals from one or more
6 financial organizations to act as a program manager. Financial
7 organizations submitting proposals shall describe the investment
8 instrument. The corporation shall select as program managers
9 the financial organizations from among the bidding financial
10 organizations that demonstrate the most advantageous
11 combination, both to potential program participants and this
12 State, based on the following factors:

- 13 (1) The financial stability and integrity of the financial
14 organization;
- 15 (2) The ability of the financial organization to establish
16 or act as a regulated investment company for the
17 purposes of this subpart;
- 18 (3) The ability of the financial organization to satisfy
19 recordkeeping and reporting requirements for the
20 purposes of a program that allows a program that is
21 exempt from taxation under chapter 235;



- 1 (4) The financial organization's plan for promoting the
2 program and the resources it is willing to allocate to
3 promote the program;
- 4 (5) The fees, if any, proposed to be charged to persons
5 for opening accounts;
- 6 (6) The minimum initial deposit and minimum contributions,
7 subject to this section that the financial
8 organization will require; and
- 9 (7) Other benefits to the State or its residents included
10 in the proposal, including fees payable to the State
11 to cover expenses to operate the program.
- 12 (e) The corporation may enter into a management contract
13 of up to ten years with a financial organization. The financial
14 organization shall provide investment instruments meeting the
15 requirements of this section. The management contract shall
16 include, at a minimum, terms requiring the financial
17 organization to:
- 18 (1) Take any action required to keep the program in
19 compliance with requirements of this section and to
20 manage the program to meet the requirements of



- 1 sections 851 to 855 of the federal Internal Revenue
2 Code of 1986, as amended;
- 3 (2) Keep adequate records of each account, keep each
4 account segregated from each other's account, and
5 provide the corporation with the information necessary
6 to prepare any necessary statements;
- 7 (3) Provide the corporation with the information necessary
8 to determine compliance with this section;
- 9 (4) Provide the corporation access to the books and
10 records of the financial organization to the extent
11 needed to determine compliance with the contract;
- 12 (5) Hold all accounts for the benefit of the account
13 owner;
- 14 (6) Be audited at least annually by a firm of independent
15 certified public accountants selected by the financial
16 organization, and provide the results of the audit to
17 the corporation; and
- 18 (7) Provide the corporation with copies of all regulatory
19 filings and reports related to the program made by the
20 financial organization during the term of the
21 management contract or while it is holding any



1 accounts, other than confidential filings or reports
2 that will not become part of the program. The
3 financial organization shall make available for review
4 by the corporation, the results of any periodic
5 examination of the financial organization by any state
6 or federal banking, insurance, or securities
7 commission, except to the extent that the report or
8 reports may not be disclosed under applicable law or
9 the rules of the examining agency.

10 (f) The corporation may require an audit to be conducted
11 of the operations and financial position of the program manager
12 at any time if the corporation has any reason to be concerned
13 about the financial position, the recordkeeping practices, or
14 the status of accounts of the program manager.

15 (g) During the term of any contract with a program
16 manager, the corporation shall conduct an examination of the
17 program manager and its handling of accounts. The examination
18 shall be conducted at least biennially if the program manager is
19 not otherwise subject to periodic examination by the
20 commissioner of financial institutions, the Federal Deposit
21 Insurance Corporation, or other similar entity.



1 (h) If selection of a financial organization as a program
2 manager is not renewed, after the end of the term:

3 (1) Accounts previously established and held in investment
4 instruments at the financial organization may be
5 terminated;

6 (2) Additional contributions may be made to the accounts;

7 (3) No new accounts may be placed with the financial
8 organization; and

9 (4) Existing accounts held by the financial organization
10 shall remain subject to all oversight and reporting
11 requirements established by the corporation.

12 If the corporation terminates a financial organization as a
13 program manager, the corporation shall take custody of accounts
14 held by the financial organization and shall seek to promptly
15 transfer the accounts to another financial organization that is
16 selected as a program manager and into investment instruments as
17 similar to the original instruments as possible.

18 (i) The corporation may enter into contracts for the
19 services of consultants for rendering professional and technical
20 assistance and advice and any other contracts that are necessary
21 and proper for the implementation of the program.



1 (j) The program shall only allow contributions from
2 individual investors in amounts ranging from a minimum of \$1,000
3 to a maximum of \$100,000 per investor.

4 (k) The program manager shall invest all contributions
5 received from investors in securities not limited to legal
6 investments under state laws relating to the investment of trust
7 fund assets by trust companies, including those authorized by
8 article 8 of chapter 412. Contributions shall be used for
9 venture capital investment. Investment may be made in any
10 manner the program deems correct. If no venture capital
11 investment is available at the time a contribution is made to
12 the program, the program manager may invest the contribution in
13 any manner allowed a regulated investment company until a
14 venture capital investment opportunity occurs. While the
15 program manager should make a best effort to make venture
16 capital investments as defined in section 206M-1, if no such
17 venture capital investment is available in Hawaii, then the
18 program manager may make venture capital investments outside
19 Hawaii.

20 **§206M-BB Limitation of liability.** In no case shall the
21 corporation, officers or employees of the corporation, or the



1 State be liable for the monetary losses of individuals
2 contributing to the program. In all cases, the program manager
3 shall inform individual contributors of the risk involved in
4 contributing to the program."

5 SECTION 3. Chapter 206M, Hawaii Revised Statutes, is
6 amended by amending its title to read as follows:

7 "HAWAII INNOVATION TECHNOLOGY [~~DEVELOPMENT~~] AND RESEARCH
8 CORPORATION"

9 SECTION 4. Chapter 206M, Hawaii Revised Statutes, is
10 amended by amending the title of part I to read as follows:

11 "PART I. [~~HAWAII TECHNOLOGY DEVELOPMENT CORPORATION~~] GENERAL
12 PROVISIONS"

13 SECTION 5. Section 206M-1, Hawaii Revised Statutes, is
14 amended as follows:

15 1. By adding eight new definitions to be appropriately
16 inserted and to read:

17 "Corporation" means the Hawaii innovation technology and
18 research corporation established by section 206M-2.

19 "Economic development project" means an endeavor related to
20 industrial, commercial, or advanced technology-based
21 agricultural enterprise. "Economic development project" shall



1 not include that portion of an endeavor devoted to the
2 construction of housing.

3 "Enterprise" means a person with a place of business in
4 Hawaii which is, or proposes to be, engaged in business in
5 Hawaii; provided that the endeavor shall not be devoted to the
6 sale of goods at retail, construction of housing, or tourism-
7 related services.

8 "Minority-owned businesses" means businesses at least fifty
9 per cent owned, controlled, and managed by socially or
10 economically disadvantaged persons.

11 "Person" means a sole proprietorship, partnership, joint
12 venture, corporation, or other association of persons organized
13 for commercial or industrial purposes.

14 "Professional investor" means any bank, bank holding
15 company, savings institution, trust company, insurance company,
16 investment company registered under the federal Investment
17 Company Act of 1940, financial services loan company, pension or
18 profit-sharing trust or other financial institution or
19 institutional buyer, licensee under the federal Small Business
20 Investment Act of 1958, or any person, partnership, or other
21 entity of whose resources a substantial amount is dedicated to



1 investing in securities or debt instruments and whose net worth
2 exceeds \$250,000.

3 "Seed capital" means financing provided for the earliest
4 stage of business development, including but not limited to
5 developing a working prototype, preparing a business plan,
6 performing an initial market analysis, or organizing a
7 management team.

8 "Venture capital investment" means any of the following
9 investments in a business:

- 10 (1) Common or preferred stock and equity securities
11 without a repurchase requirement for at least five
12 years;
- 13 (2) A right to purchase stock or equity securities;
- 14 (3) Any debenture or loan, whether or not convertible or
15 having stock purchase rights, which are subordinated,
16 together with security interests against the assets of
17 the borrower, by their terms to all borrowings of the
18 borrower from other institutional lenders, and that is
19 for a term of not less than three years, and that has
20 no part amortized during the first three years; and
- 21 (4) General or limited partnership interests."



1 2. By amending the definition of "board" to read:

2 "Board" means the board of directors of the [development]
3 corporation established in section 206M-2, and any successor
4 thereto."

5 3. By deleting the definition of "development
6 corporation".

7 ~~["Development corporation" means the Hawaii technology
8 development corporation established by section 206M-2."]~~

9 SECTION 6. Section 206M-2, Hawaii Revised Statutes, is
10 amended by amending its title and subsections (a) and (b) to
11 read as follows:

12 "§206M-2 Establishment of the Hawaii innovation technology
13 ~~[development]~~ and research corporation; purpose. (a) There is
14 established the Hawaii innovation technology ~~[development]~~ and
15 research corporation, which shall be a public body corporate and
16 politic and an instrumentality and agency of the State. The
17 ~~[development]~~ corporation shall be placed within the department
18 of business, economic development, and tourism for
19 administrative purposes, pursuant to section 26-35. The purpose
20 of the ~~[development]~~ corporation shall be to facilitate the



1 growth and development of the commercial technology industry in
2 Hawaii. Its duties shall include [7] but not be limited to:

3 (1) Connecting Hawaii-based technology companies and
4 entrepreneurs to new market opportunities;

5 ~~[(1)]~~ (2) Developing and encouraging industrial parks as
6 technology innovation centers and other technology
7 infrastructure projects and developing or assisting
8 with the development of projects within or outside of
9 industrial parks, including participating with the
10 private sector in such development;

11 ~~[(2) Providing financial and other support and services to~~
12 ~~Hawaii-based technology companies;~~

13 ~~(3) Collecting and analyzing information on the state of~~
14 ~~commercial technology activity in Hawaii;~~

15 ~~(4) Promoting and marketing Hawaii as a site for~~
16 ~~commercial technology activity; and~~

17 ~~(5) Providing advice on policy and planning for~~
18 ~~technology-based economic development.]~~

19 (3) Encouraging, initiating, and aiding in the development
20 and commercialization of local innovation and
21 technology;



- 1 (4) Furnishing the financial and other support and
2 services to institute and grow local innovation and
3 technology;
- 4 (5) Developing policy and resource allocations to enable
5 and support start-up companies, sustain existing
6 companies, and attract companies to relocate or
7 establish offices in Hawaii;
- 8 (6) Attracting resources from public and private sector
9 organizations and agencies to develop a local
10 qualified innovation research and technology
11 workforce;
- 12 (7) Coordinating with other state agencies and entities to
13 support the innovation and technology industry;
- 14 (8) Collecting and analyzing information on the state of
15 local and global technology activity; and
- 16 (9) Taking any and all other actions reasonably designed
17 to promote the purposes of the corporation in the
18 interest of promoting the general welfare of the
19 people of the State.
- 20 (b) The governing body of the [~~development~~] corporation
21 shall consist of a board of directors having [~~eleven~~] nine



1 voting members. [~~Seven of the members shall be appointed by the~~
2 ~~governor for staggered terms pursuant to section 26-34. Six of~~
3 ~~the appointed members shall be from the general public and~~
4 ~~selected on the basis of their knowledge, interest, and proven~~
5 ~~expertise in, but not limited to, one or more of the following~~
6 ~~fields: finance, commerce and trade, corporate management,~~
7 ~~marketing, economics, engineering, and telecommunications, and~~
8 ~~other technology fields. The other appointed member shall be~~
9 ~~selected from the faculty of the University of Hawaii.] The
10 director of business, economic development, and tourism, and an
11 appointed member from the University of Hawaii, or their
12 designated representatives, shall serve as ex officio voting
13 members of the board. All members shall have knowledge,
14 interest, and proven expertise in, but not limited to, one or
15 more of the following fields: finance, commerce and trade,
16 corporate management, marketing, economics, engineering,
17 telecommunications, and other technology fields. Seven of the
18 members shall be appointed by the governor pursuant to section
19 26-34 for staggered terms; provided that membership shall
20 include:~~



1 (1) Three members who shall be appointed by the governor
2 from a list of four nominees submitted by the
3 president of the senate, and three members who shall
4 be appointed by the governor from a list of four
5 nominees submitted by the speaker of the house of
6 representatives; provided that if fewer than four
7 nominees are submitted for each appointment, the
8 governor may disregard the list; and

9 (2) One member who shall be appointed by the governor from
10 the economic development board of Maui, Kauai, or
11 Hawaii county.

12 The governor shall make board member appointments to ensure the
13 fulfillment of all requirements of paragraphs (1) and (2);
14 provided that upon the occurrence of a vacancy subject to
15 paragraph (1), the governor shall notify the president of the
16 senate and the speaker of the house of representatives of any
17 unfulfilled requirements pursuant to paragraphs (1) and (2), and
18 the president of the senate or the speaker of the house of
19 representatives, as appropriate, shall submit nominees who
20 fulfill the requirements pursuant to paragraphs (1) and (2).

21 All appointed members of the board shall continue in office



1 until their respective successors have been appointed. [The
2 ~~director of business, economic development, and tourism, the~~
3 ~~director of finance, an appointed member from the board of the~~
4 ~~Hawaii strategic development corporation, and an appointed~~
5 ~~member from the board of the natural energy laboratory of Hawaii~~
6 ~~authority, or their designated representatives, shall serve as~~
7 ~~ex officio[,] voting members of the board.] The director of
8 business, economic development, and tourism shall serve as the
9 chairperson until such time as a chairperson is elected by the
10 board from the membership. The board shall elect [such] other
11 officers as it deems necessary."~~

12 SECTION 7. Section 206M-3, Hawaii Revised Statutes, is
13 amended by amending subsection (a) to read as follows:

14 "(a) The [~~development~~] corporation shall have all the
15 powers necessary to carry out its purposes, including the powers
16 to:

- 17 (1) Sue and be sued;
18 (2) Have a seal and alter the same at its pleasure;
19 (3) Make and execute, enter into, amend, supplement, and
20 carry out contracts and all other instruments
21 necessary or convenient for the exercise of its powers



1 and functions under this chapter, including, with the
2 approval of the governor, a project agreement, or an
3 amendment or supplement to an existing project
4 agreement, with a qualified person, and to enter into
5 and carry out any agreement whereby the obligations of
6 a qualified person under a project agreement shall be
7 unconditionally guaranteed or insured by, or the
8 performance thereof assigned to, or guaranteed or
9 insured by, a person or persons other than the
10 qualified person; and extend or renew any project
11 agreement or any other agreement related thereto;
12 provided that any such renewal or extension shall be
13 subject to the approval of the governor unless made in
14 accordance with provisions for the extension or
15 renewal contained in a project agreement or related
16 agreement theretofore approved by the governor;

17 (4) Make and alter bylaws for its organization and
18 internal management;

19 (5) Adopt rules under chapter 91 necessary to effectuate
20 this chapter in connection with industrial parks,



- 1 projects, multi-project programs, and the operations,
2 properties, and facilities of the corporation;
- 3 (6) Through its chief executive officer, appoint officers,
4 agents, consultants, advisors, and employees,
5 prescribe their duties and qualifications, and fix
6 their salaries, without regard to chapter 76;
- 7 (7) Prepare or cause to be prepared development plans for
8 industrial parks;
- 9 (8) Acquire, own, lease, hold, clear, improve, and
10 rehabilitate real, personal, or mixed property and
11 assign, exchange, transfer, convey, lease, sublease,
12 or encumber any project, including by way of
13 easements;
- 14 (9) Acquire, construct, improve, install, equip, or
15 develop or provide for the acquisition, construction,
16 improvement, installation, equipping, or development
17 of any project and designate a qualified person as its
18 agent for such purpose;
- 19 (10) Own, hold, assign, transfer, convey, exchange, lease,
20 sublease, or encumber any project;



- 1 (11) Arrange or initiate appropriate action for the
2 planning, replanning, opening, grading, or closing of
3 streets, roads, roadways, alleys, easements, or other
4 places, the furnishing of improvements, the
5 acquisition of property or property rights, or the
6 furnishing of property or services in connection with
7 an industrial park or project;
- 8 (12) Prepare, or cause to be prepared, plans,
9 specifications, designs, and estimates of cost for the
10 acquisition, construction, reconstruction,
11 improvement, installation, equipping, development, or
12 maintenance of any project or industrial park, and
13 from time to time modify the plans, specifications,
14 designs, or estimates;
- 15 (13) Engage the services of consultants on a contractual
16 basis for rendering professional and technical
17 assistance and advice;
- 18 (14) Procure insurance against any loss in connection with
19 its property and other assets and operations in
20 amounts and from insurers as it deems desirable;



- 1 (15) Accept and expend gifts or grants in any form from any
2 public agency or from any other source;
- 3 (16) Issue special purpose revenue bonds and refunding
4 special purpose revenue bonds pursuant to and in
5 accordance with this chapter in principal amounts as
6 may be authorized from time to time by law to finance
7 or refinance the cost of a project, singly or as part
8 of a multi-project program, or an industrial park as
9 authorized by law and provide for the security thereof
10 as permitted by this chapter;
- 11 (17) Lend or otherwise apply the proceeds of the bonds
12 issued for a project or an industrial park either
13 directly or through a trustee to a qualified person
14 for use and application by the qualified person in the
15 acquisition, construction, improvement, installation,
16 equipping, or development of a project or industrial
17 park, or agree with the qualified person whereby any
18 of these activities shall be undertaken or supervised
19 by that qualified person or by a person designated by
20 the qualified person;



- 1 (18) As security for the payment of the principal of,
2 premium, if any, and interest of the special purpose
3 revenue bonds issued for a project to:
- 4 (A) Pledge, assign, hypothecate, or otherwise
5 encumber all or any part of the revenues and
6 receipts derived or to be derived by the
7 [development] corporation under the project
8 agreement for the project for which the bonds are
9 issued;
- 10 (B) Pledge and assign the interest and rights of the
11 [development] corporation under the project
12 agreement or other agreement with respect to the
13 project or the special purpose revenue bonds;
- 14 (C) Pledge and assign any bond, debenture, note, or
15 other evidence of indebtedness received by the
16 [development] corporation with respect to the
17 project; or
- 18 (D) Any combination of the foregoing;
- 19 (19) With or without terminating a project agreement,
20 exercise any and all rights provided by law for entry
21 and reentry upon or take possession of a project at



1 any time or from time to time upon breach or default
2 by a qualified person under a project agreement,
3 including any action at law or in equity for the
4 purpose of effecting its rights of entry or reentry or
5 obtaining possession of the project or for the
6 payments of rentals, user taxes, or charges, or any
7 other sum due and payable by the qualified person to
8 the [~~development~~] corporation pursuant to the project
9 agreement;

10 (20) Enter into arrangements with qualified county
11 development entities whereby the board would provide
12 financial support to qualified projects proposed;

13 (21) Create an environment in which to support technology
14 economic development, including but not limited to:

15 (A) Supporting all aspects of technology-based
16 economic development;

17 (B) Developing instructive programs, identifying
18 issues and impediments to the growth of
19 technology industry in Hawaii; and



- 1 (C) Providing policy analysis and information
2 important to the development of technology
3 industries in Hawaii;
- 4 (22) Develop programs that support start-up and existing
5 technology companies in Hawaii and attract new
6 companies to relocate to or establish operations in
7 Hawaii by assessing the needs of these companies and
8 providing the physical and technical infrastructure to
9 support their operations;
- 10 (23) Coordinate its efforts with other public and private
11 agencies involved in stimulating technology-based
12 economic development in Hawaii, including but not
13 limited to:
- 14 (A) The department of business, economic development,
15 and tourism;
- 16 (B) The Pacific international center for high
17 technology research; and
- 18 (C) The office of technology transfer and economic
19 development of the University of Hawaii;
- 20 (24) Promote and market Hawaii as a site for commercial
21 technology activity, including the expenditure of



- 1 funds for protocol purposes at the discretion of the
2 board;
- 3 (25) Provide advice on policy and planning for technology-
4 based economic development;
- 5 (26) Finance, conduct, or cooperate in financing or
6 conducting technological, business, financial, or
7 other investigations that are related to or likely to
8 lead to business, technology, and economic development
9 by making and entering into contracts and other
10 appropriate arrangements, including the provision of
11 loans, start-up and expansion capital, loan guaranty,
12 loans convertible to equity, equity charged and
13 received by the corporation, and other forms of
14 assistance;
- 15 (27) Solicit, study, and assist in the preparation of
16 business plans and proposals of new or established
17 businesses;
- 18 (28) Provide advice, technical and marketing assistance,
19 support, and promotion to enterprises in which
20 investments have been made;
- 21 (29) Acquire, hold, and sell qualified securities;



- 1 (30) Consent, subject to the provisions of any contract
2 with noteholders or bondholders, whenever the
3 corporation deems it necessary or desirable in the
4 fulfillment of the purposes of this chapter, 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 corporation is a
9 party;
- 10 (31) Invest any funds held in reserves or sinking funds, or
11 any funds not required for immediate disbursement, in
12 such investments as may be lawful for fiduciaries in
13 the State; [~~and~~]
- 14 (32) Coordinate the corporation's programs with any
15 education and training program;
- 16 (33) Carry out specialized programs designed to encourage
17 the development of new products, businesses, and
18 markets;
- 19 (34) Prepare, publish, and distribute such technical
20 studies, reports, bulletins, and other materials as it
21 deems appropriate, subject only to the maintenance and



- 1 respect for confidentiality of client proprietary
2 information;
- 3 (35) Organize, conduct, sponsor, or cooperate in and assist
4 in the conduct of conferences, demonstrations, and
5 studies relating to the stimulation and formation of
6 businesses;
- 7 (36) Provide and pay for such advisory services and
8 technical, managerial, and marketing assistance,
9 support, and promotion as may be necessary or
10 desirable to carry out the purposes of this chapter;
- 11 (37) Accept donations, grants, bequests, and devises of
12 money, property, service, or other things of value
13 that may be received from the United States or any
14 agency thereof, any governmental agency, or any public
15 or private institution, person, firm, or corporation,
16 to be held, used, or applied for any or all of the
17 purposes specified in this chapter. Receipt of each
18 donation or grant shall be detailed in the annual
19 report of the corporation. The report shall include
20 the identity of the donor or lender, the nature of the
21 transaction, and any conditions attaching thereto;



- 1 (38) 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 corporation 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 to a tenant;
- 9 (39) Acquire, own, hold, dispose of, and encumber personal
- 10 property of any nature, or any interest therein;
- 11 (40) Enter into agreements or other transactions with any
- 12 federal, state, or county agency;
- 13 (41) Appear in its own behalf before state, county, or
- 14 federal agencies;
- 15 (42) Appoint advisory committees as deemed necessary; and
- 16 ~~[-(32)-]~~ (43) Do any and all things necessary or convenient to
- 17 carry out its purposes and exercise the powers given
- 18 and granted in this chapter."

PART III

20 SECTION 8. Chapter 206M, Hawaii Revised Statutes, is
21 amended by replacing the term "development corporation" with the



1 term "corporation", unless amended or otherwise specified in
2 this Act.

3 SECTION 9. Sections 26-18(b), 171-2, 171-64.7(a), and
4 304A-3101(b), Hawaii Revised Statutes, are amended by
5 substituting the term "Hawaii innovation technology and research
6 corporation" wherever the term "Hawaii technology development
7 corporation" appears.

8 SECTION 10. Section 210-7, Hawaii Revised Statutes, is
9 amended by amending subsection (b) to read as follows:

10 "(b) Subject to the availability of funds, a request from
11 the Hawaii innovation technology [~~development~~] and research
12 corporation for a transfer of funds to supplement appropriations
13 for small business innovation research grants shall be granted
14 expeditiously. If available funds are inadequate for a transfer
15 to the [~~development~~] corporation, the director shall advise the
16 [~~development~~] corporation that a transfer will be made when
17 sufficient funds are available [~~in the Hawaii capital loan~~
18 ~~revolving fund~~]."

19 SECTION 11. Section 227D-2, Hawaii Revised Statutes, is
20 amended by amending subsection (b) to read as follows:



1 " (b) The governing body of the authority shall consist of
2 a board of directors having [~~thirteen~~] twelve voting members.
3 Three members from the general public shall be appointed by the
4 governor for staggered terms pursuant to section 26-34, except
5 that one of these members shall be a resident of the county of
6 Hawaii. The members shall be selected on the basis of their
7 knowledge, interest, and proven expertise in, but not limited
8 to, one or more of the following fields: finance, commerce and
9 trade, corporate management, marketing, economics, engineering,
10 energy management, real estate development, property management,
11 aquaculture, and ocean science. The chairperson and secretary
12 of the research advisory committee shall serve on the board.
13 The director of business, economic development, and tourism, the
14 chairperson of the board of land and natural resources, the
15 president of the University of Hawaii, the mayor of the county
16 of Hawaii, [~~an appointed member from the board of the Hawaii~~
17 ~~technology development corporation,~~] and an appointed member
18 from the board of the Hawaii [~~strategic development~~] innovation
19 technology and research corporation, or their designated
20 representatives, shall serve as ex officio, voting members of
21 the board. The tenants of the authority shall elect two members



1 to the board from among the tenants of the authority, of which
2 one member shall serve a two-year term, and one member shall
3 serve a four-year term. In electing the tenant members, each
4 tenant shall be entitled to cast one vote for each member
5 position. The tenant members shall be recused from voting on
6 setting lease rents, water rates, or utility rates, but may
7 participate in discussions. The director of business, economic
8 development, and tourism shall serve as the chairperson until
9 such time as a chairperson is elected by the board from the
10 membership. The board shall elect other officers as it deems
11 necessary."

12 SECTION 12. Section 304A-1959, Hawaii Revised Statutes, is
13 amended to read as follows:

14 "**§304A-1959 Biennial report.** No later than twenty days
15 prior to the convening of the regular session of each odd-
16 numbered year, the University of Hawaii shall submit a report to
17 the legislature concerning:

18 (1) All funds deposited into the university innovation and
19 commercialization initiative special fund and a
20 detailed description of the use of those funds; and



1 (2) Coordinated efforts between the innovation and
2 commercialization initiative program and other state
3 agencies, including the Hawaii innovation technology
4 [~~development~~] and research corporation[~~, the Hawaii~~
5 ~~strategic development corporation,~~] and the Hawaii
6 state energy office, to move the State's innovation
7 goals forward, and to more efficiently and effectively
8 utilize resources to achieve these outcomes."

9 SECTION 13. Section 394-8, Hawaii Revised Statutes, is
10 amended by amending subsection (b) to read as follows:

11 "(b) The department shall utilize the resources of the
12 University of Hawaii, including the community college system,
13 the Hawaii innovation technology [~~development~~] and research
14 corporation, and other educational and training resources in the
15 public and private sectors throughout the State as may be
16 appropriate to be used to provide preemployment or employment
17 training or on-the-job training for local residents hired by
18 businesses relocating to Hawaii or expanding their local
19 operations. Training may include but not be limited to training
20 in entrepreneurship, capital formation, start-up, and business
21 plans. The department may contract for these training needs



1 from public agencies including the various University of Hawaii
2 campuses, private educational institutions, nonprofit
3 corporations, or private entities in order to provide the
4 required training."

5 **PART IV**

6 SECTION 14. Chapter 211F, Hawaii Revised Statutes, is
7 repealed.

8 SECTION 15. On July 1, 2020, the terms of the board
9 members of the Hawaii strategic development corporation shall
10 expire.

11 SECTION 16. All rights, powers, functions, and duties of
12 the Hawaii technology development corporation and Hawaii
13 strategic development corporation are transferred to the Hawaii
14 innovation technology and research corporation.

15 All employees who occupy civil service positions and whose
16 functions are transferred to the Hawaii innovation technology
17 and research corporation by this Act shall retain their civil
18 service status, whether permanent or temporary. Employees shall
19 be transferred without loss of salary, seniority (except as
20 prescribed by applicable collective bargaining agreements),
21 retention points, prior service credit, any vacation and sick



1 leave credits previously earned, and other rights, benefits, and
2 privileges, in accordance with state personnel laws and this
3 Act; provided that the employees possess the minimum
4 qualifications and public employment requirements for the class
5 or position to which transferred or appointed, as applicable;
6 provided further that subsequent changes in status may be made
7 pursuant to applicable civil service and compensation laws.

8 Any employee who, prior to this Act, is exempt from civil
9 service and is transferred as a consequence of this Act may
10 retain the employee's exempt status, but shall not be appointed
11 to a civil service position as a consequence of this Act. An
12 exempt employee who is transferred by this Act shall not suffer
13 any loss of prior service credit, vacation or sick leave credits
14 previously earned, or other employee benefits or privileges as a
15 consequence of this Act; provided that the employees possess
16 legal and public employment requirements for the position to
17 which transferred or appointed, as applicable; provided further
18 that subsequent changes in status may be made pursuant to
19 applicable employment and compensation laws. The chief
20 executive officer may prescribe the duties and qualifications of



1 these employees and fix their salaries without regard to chapter
2 76, Hawaii Revised Statutes.

3 SECTION 17. All appropriations, records, equipment,
4 machines, files, supplies, contracts, books, papers, documents,
5 maps, and other personal property heretofore made, used,
6 acquired, or held by the Hawaii technology development
7 corporation and Hawaii strategic development corporation
8 relating to the functions transferred to the Hawaii innovation
9 technology and research corporation shall be transferred with
10 the functions to which they relate.

11 SECTION 18. All rules, policies, procedures, guidelines,
12 and other materials adopted or developed by the Hawaii
13 technology development corporation and Hawaii strategic
14 development corporation to implement provisions of the Hawaii
15 Revised Statutes, which are made applicable to the Hawaii
16 innovation technology and research corporation by this Act,
17 shall remain in full force and effect until amended or repealed
18 by the department of business, economic development and tourism
19 pursuant to chapter 91, Hawaii Revised Statutes. In the
20 interim, every reference to the Hawaii technology development
21 corporation or Hawaii strategic development corporation in those



1 rules, policies, procedures, guidelines, and other material is
2 amended to refer to the Hawaii innovation technology and
3 research corporation as appropriate.

4 SECTION 19. All deeds, leases, contracts, loans,
5 agreements, permits, or other documents executed or entered into
6 by or on behalf of the Hawaii technology development corporation
7 or Hawaii strategic development corporation pursuant to the
8 provisions of the Hawaii Revised Statutes, which are made
9 applicable to the Hawaii innovation technology and research
10 corporation by this Act, shall remain in full force and effect.
11 Upon the effective date of this Act, every reference to the
12 Hawaii technology development corporation or Hawaii strategic
13 development corporation therein shall be construed as a
14 reference to the Hawaii innovation technology and research
15 corporation as appropriate.

16 PART V

17 SECTION 20. Section 206M-15.5, Hawaii Revised Statutes, is
18 amended to read as follows:

19 "**§206M-15.5 Technology special fund.** There is established
20 in the state treasury a fund to be known as the technology



1 special fund, into which shall be deposited, except as otherwise
2 provided by section 206M-17:

- 3 (1) Any appropriations or other funds required to be
4 deposited by law; and
- 5 (2) All moneys, fees, and equity from tenants, qualified
6 persons, or other users of the development
7 corporation's industrial parks, projects, other leased
8 facilities, and other services and publications;
9 provided that the total amount of moneys in the fund shall not
10 exceed [~~\$3,000,000~~] \$_____ at the end of any fiscal year.

11 All moneys in the fund are appropriated for the purposes of and
12 shall be expended by the development corporation for the
13 operation, maintenance, and management of its industrial parks,
14 projects, facilities, services, and publications, and to pay the
15 expenses in administering the special purpose revenue bonds of
16 the development corporation or in carrying out its project
17 agreements."

18 SECTION 21. Any unencumbered balances remaining in the
19 technology special fund as of July 1, 2019, shall lapse to the
20 credit of the general fund.



1 SECTION 22. There is established in the Hawaii innovation
2 technology and research corporation 1.50 full-time equivalent
3 (1.50 FTE) permanent positions and 6.25 full-time equivalent
4 (6.25 FTE) temporary positions.

5 SECTION 23. There is appropriated out of the general
6 revenues of the State of Hawaii the sum of \$ or so
7 much thereof as may be necessary for fiscal year 2019-2020 for
8 personal services to convert 1.50 full-time equivalent permanent
9 positions and 6.25 full-time equivalent temporary positions in
10 the Hawaii technology development corporation (BED143/TE) to the
11 Hawaii innovation technology and research corporation and to
12 convert the means of financing from special funds to general
13 funds.

14 The sum appropriated shall be expended by the Hawaii
15 innovation technology and research corporation for the purposes
16 of this Act.

17 SECTION 24. There is appropriated out of the general
18 revenues of the State of Hawaii the sum of \$ or so
19 much thereof as may be necessary for fiscal year 2019-2020 and
20 the same sum or so much thereof as may be necessary for fiscal
21 year 2020-2021 for the staffing of strategic development and



1 technology investment programs, including the establishment of
2 two full-time equivalent (2.00 FTE) positions that are exempt
3 from chapter 76, Hawaii Revised Statutes.

4 The sums appropriated shall be expended by the Hawaii
5 innovation technology and research corporation for the purposes
6 of this Act.

7 PART VI

8 SECTION 25. The Hawaii Revised Statutes is amended by
9 adding a new chapter to be appropriately designated and to read
10 as follows:

11 "CHAPTER

12 HAWAII BROADBAND OFFICE

13 § -1 Definitions. As used in this chapter:

14 "Broadband" means high-speed internet access that is always
15 on, including mobile and fixed technologies.

16 "Corporation" means the Hawaii innovation technology and
17 research corporation.

18 "Office" means the Hawaii broadband office.

19 § -2 Hawaii broadband office; establishment; state
20 broadband strategy officer; staff. (a) There is established



1 the Hawaii broadband office within the Hawaii innovation
2 technology and research corporation.

3 (b) The chief executive officer of the Hawaii innovation
4 technology and research corporation shall appoint, exempt from
5 chapter 76, a state broadband strategy officer to head the
6 office. The corporation shall employ any staff as may be
7 necessary for the purposes of this chapter; provided that any
8 staff employed pursuant to this section shall be exempt from
9 chapter 76.

10 § -3 **Hawaii broadband office; duties.** In furtherance of
11 the State's objectives and policies for the economy pursuant to
12 section 226-10.5, the office shall:

- 13 (1) Develop and implement specific strategies and plans to
14 aggressively increase broadband affordability,
15 penetration, and competitive availability in the
16 State;
- 17 (2) Support the efforts of both public and private
18 entities in Hawaii to enhance or facilitate the
19 deployment of and access to competitively priced,
20 advanced electronic communications services, including
21 broadband and its products and services and internet



- 1 access services of general application throughout
2 Hawaii;
- 3 (3) Promote the landing of trans-Pacific submarine cable,
4 including the development of a shared access cable
5 station and associated terrestrial connectivity to
6 reduce barriers to fiber landing in Hawaii;
- 7 (4) Promote, advocate, and facilitate the implementation
8 of the findings and recommendations of the Hawaii
9 broadband task force established by Act 2, First
10 Special Session Laws of Hawaii 2007; and
- 11 (5) Actively seek out funding from private and public
12 sources in furtherance of the office's duties pursuant
13 to this chapter.
- 14 **§ -4 Broadband planning and coordination; cooperation.**
- 15 (a) The office shall:
- 16 (1) Seek input and the widest possible cooperation from
17 public and private agencies and individuals to achieve
18 the purposes of this chapter;
- 19 (2) Promote coordinated broadband planning; and



1 (3) To the extent feasible, incorporate the ideas and
2 suggestions of broadband stakeholders in the office's
3 planning directives.

4 (b) Nothing in this chapter shall be construed to delegate
5 or detract in any way from the functions, powers, and duties
6 conferred by law or rule on any department or agency of the
7 State or county."

8 SECTION 26. Act 199, Session Laws of Hawaii 2010, as
9 amended by section 5, Act 151, Session Laws of Hawaii 2011, as
10 amended by section 2, Act 23, Session Laws of Hawaii 2016, is
11 amended by amending section 3 to read as follows:

12 "SECTION 3. [~~Telework promotion; broadband assistance~~]
13 Broadband advisory council; establishment; purpose. (a) The
14 [~~director of commerce and consumer affairs~~] chief executive
15 officer of the Hawaii innovation technology and research
16 corporation, or the officer's designee, shall convene and chair
17 the broadband [~~assistance~~] advisory council to advise the
18 [~~director of commerce and consumer affairs~~] chief executive
19 officer of the Hawaii innovation technology and research
20 corporation on policy [~~and funding priorities~~] to promote [~~and~~
21 ~~encourage use of telework alternatives for public and private~~



1 employees,] and expedite deployment of affordable and accessible
2 broadband services in Hawaii.

3 (b) The council shall be composed of [~~the director of~~
4 ~~commerce and consumer affairs, or the director's designee, the~~
5 ~~director of business, economic development, and tourism, or the~~
6 ~~director's designee,]~~ the chief executive officer of the Hawaii
7 innovation technology and research corporation, or the officer's
8 designee, and the following twelve members who shall be equally
9 appointed by the president of the senate and by the speaker of
10 the house of representatives as follows:

- 11 (1) [~~Two members]~~ One member of the senate, appointed by
12 the president of the senate;
- 13 (2) [~~Two members]~~ One member of the house of
14 representatives, appointed by the speaker of the house
15 of representatives;
- 16 (3) [~~Four]~~ Six representatives of federal, state, and
17 county government entities having a role in
18 infrastructure deployment [~~, management of public~~
19 ~~rights of way, regulation, and franchising,~~],
20 information technology [~~,~~], and economic development;
21 and



1 (4) Four representatives of Hawaii's private sector
2 technology, telecommunications, and investment
3 industries.

4 In making the appointments pursuant to subsection (b)(1) through
5 (b)(3), the president of the senate and the speaker of the house
6 of representatives shall ensure representation of each of the
7 counties of Hawaii, Maui, and Kauai, and the city and county of
8 Honolulu by one or more appointed members. Except for the
9 ~~[director of commerce and consumer affairs and the director of~~
10 ~~business, economic development, and tourism,]~~ chief executive
11 officer of the Hawaii innovation technology and research
12 corporation, all members shall serve for a term of four years.
13 Notwithstanding any law to the contrary, the terms of all
14 members as of July 1, 2016, shall expire on June 30, 2019; and,
15 each subsequent four-year term shall commence on July 1, and
16 expire on June 30 every four years thereafter. Any member of
17 the council whose term has expired may continue to serve as a
18 holdover member until reappointment or until a successor is
19 appointed. Any vacancies occurring in the membership of the
20 advisory council shall be filled for the remainder of the
21 unexpired term in the same manner as the original appointments.



1 (c) The [~~director of commerce and consumer affairs~~] chief
2 executive officer of the Hawaii innovation technology and
3 research corporation, or the officer's designee, shall serve as
4 chairperson of the council. The chairperson may designate
5 representatives of other interested public or private sector
6 organizations to serve as members of the council, or as members
7 of the work groups of the council to address specified issues on
8 an ad hoc basis, as the chairperson deems necessary. The
9 council shall meet at times as may be called by the chairperson.
10 Members and ad hoc members shall be reimbursed for reasonable
11 expenses, including travel expenses, necessary for the
12 performance of their duties. Administrative support to the
13 council shall be provided by the [~~department of commerce and~~
14 ~~consumer affairs.~~] Hawaii innovation technology and research
15 corporation.

16 (d) The council shall:

- 17 (1) Monitor the broadband-based development efforts of
18 other states and nations in areas such as business [~~7~~
19 ~~education, and health;~~] and economic development;
20 (2) Advise the [~~department~~] Hawaii innovation technology
21 and research corporation on other states' best



- 1 practices [~~involving telework promotion and policies~~]
2 and strategies related to making affordable broadband
3 services available to every Hawaii [~~home and~~]
4 business;
- 5 (3) Monitor broadband-related activities at the federal
6 level;
- 7 (4) Monitor [~~regulatory and~~] policy changes for potential
8 impact on broadband deployment and sustainability in
9 Hawaii; [~~and~~]
- 10 (5) Encourage public-private partnerships and
11 collaborations to increase the deployment and adoption
12 of broadband services and applications[~~-~~]; and
- 13 (6) Advise the chief executive officer of the Hawaii
14 innovation technology and research corporation on
15 broadband deployment."

16 SECTION 27. There is appropriated out of the general
17 revenues of the State of Hawaii the sum of \$ or so
18 much thereof as may be necessary for fiscal year 2019-2020 and
19 the same sum or so much thereof as may be necessary for fiscal
20 year 2020-2021 for the creation and staffing of the Hawaii
21 broadband office, including the establishment of two full-time



1 equivalent (2.00 FTE) positions that are exempt from chapter 76,
2 Hawaii Revised Statutes.

3 The sums appropriated shall be expended by the Hawaii
4 innovation technology and research corporation for the purposes
5 of this Act.

6 PART VII.

7 SECTION 28. The purpose of this part is to appropriate
8 funds for the fiscal biennium beginning July 1, 2019, and ending
9 June 30, 2021, for certain programs within the department of
10 business, economic development, and tourism.

11 SECTION 29. DEFINITIONS. Unless otherwise clear from the
12 context, as used in this part:

13 "Expending agency" means an agency within the department of
14 business, economic development, and tourism.

15 Abbreviations, where used to denote the expending agency,
16 shall mean the following:

17 BED Department of business, economic development, and
18 tourism

19 "Means of financing" or "MOF" means the source from which
20 funds are appropriated or authorized to be expended for the
21 programs and projects specified in this part. All



1 appropriations are followed by letter symbols. The letter
2 symbols, where used, shall have the following meanings:

- 3 A General funds
4 B Special funds
5 P Other federal funds
6 W Revolving funds

7 "Position ceiling" means the maximum number of permanent
8 and temporary full-time equivalent positions authorized for a
9 particular program during a specified period or periods, as
10 denoted by an asterisk for permanent full-time equivalent
11 positions and a pound sign for temporary full-time equivalent
12 positions.

13 "Program ID" means the unique identifier for the specific
14 program and consists of the abbreviation for the organization
15 responsible for carrying out the program followed by the
16 organization number for the program.

17 SECTION 30. APPROPRIATIONS. The following sums, or so
18 much thereof as may be sufficient to accomplish the purposes and
19 programs designated herein, are hereby appropriated or
20 authorized, as the case may be, from the means of financing
21 specified to the expending agencies designated for the fiscal



1 biennium beginning July 1, 2019, and ending June 30, 2021. The
2 total expenditures and the number of positions in each fiscal
3 year of the biennium shall not exceed the sums and the position
4 ceilings indicated for each fiscal year, except as provided
5 elsewhere in this part or as provided by general law.



PROGRAM APPROPRIATIONS

1
2
3
4
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9

| ITEM NO | PROG. ID | PROGRAM | EXPENDING AGENCY | APPROPRIATIONS | | | |
|---------|-----------|---|------------------|-----------------------|-------|-----------------------|-------|
| | | | | FISCAL YEAR 2019-2020 | M O F | FISCAL YEAR 2020-2021 | M O F |
| 1. | BED143 | - HAWAII INNOVATION TECHNOLOGY AND RESEARCH CORPORATION | | 3.00* | | 3.00* | |
| | | | | 12.00# | | 12.00# | |
| | OPERATING | | BED | 2,580,026A | | 2,580,026A | |
| | | | BED | 2,644,146B | | 2,644,146B | |
| | | | BED | 1,500,000W | | 1,500,000W | |
| | | | | 9.00# | | 9.00# | |
| | | | BED | 964,713P | | 964,713P | |



1 SECTION 31. Provided that any funds appropriated to a
2 program pursuant to this part shall be included in the base
3 budget of that program, as established in the General
4 Appropriations Act of 2019 (House Bill No. 2, H.D. 1, S.D. 1,
5 C.D. 1).

6 SECTION 32. Provided that, notwithstanding any provision
7 contained in the General Appropriations Act of 2019 (House Bill
8 No. 2, H.D. 1, S.D. 1, C.D. 1) that appropriates funds and
9 establishes position ceilings, the appropriations and positions
10 authorized in this part shall be in addition to the positions
11 authorized for that program under the General Appropriations Act
12 of 2019; provided further that any incumbent employee shall
13 retain the employee's:

- 14 (1) Civil service status, whether permanent or temporary;
15 and
16 (2) Salary, seniority (except as may be prescribed by an
17 applicable collective bargaining agreement), retention
18 points, prior service credit, any vacation and sick
19 leave credits previously earned, and other rights,
20 benefits, and privileges, in accordance with state
21 personnel laws.



1 SECTION 33. Provided that, notwithstanding any law to the
2 contrary, the position ceilings and funds appropriated in this
3 part may be transferred with the approval of the governor to the
4 General Appropriations Act of 2019 (House Bill No. 2, H.D. 1,
5 S.D. 1, C.D. 1), for program execution and expenditure.

6 SECTION 34. If any portion of a specific appropriation
7 made by this part is held to be invalid for any reason, the
8 remaining portion shall be expended to fulfill the objective of
9 the appropriation to the extent possible.

10 SECTION 35. If manifest clerical, typographical, or other
11 mechanical errors are found in this part, the governor may
12 correct the errors.

13 PART VIII

14 SECTION 36. If any provision of this Act, or the
15 application thereof to any person or circumstance, is held
16 invalid, the invalidity does not affect other provisions or
17 applications of the Act that can be given effect without the
18 invalid provision or application, and to this end the provisions
19 of this Act are severable.

20 SECTION 37. In codifying the new sections added by section
21 2 of this Act, the revisor of statutes shall substitute



1 appropriate section numbers for the letters used in designating
2 the new sections in this Act.

3 SECTION 38. Statutory material to be repealed is bracketed
4 and stricken. New statutory material is underscored.

5 SECTION 39. This Act shall take effect on July 1, 2072;
6 provided that parts V, VI, VII, and VIII shall take effect on
7 July 1, 2019.



Report Title:

DBEDT; Technology-based Economic Development Strategy;
Appropriation

Description:

Part I: Purpose section. Part II: Establishes the Hawaii innovation technology and research corporation (HITRC) and consolidates powers, duties, and programs of Hawaii Technology Development Corporation (HTDC) and Hawaii Strategic Development Corporation (HSDC) under HITRC. Part III: Makes conforming amendments. Part IV: Repeals HSDC and transfers all duties, employees, rules, records, and equipment from HTDC and HSDC to HITRC. Part V: Appropriates funds for staffing for HITRC. Part VI: Establishes the Hawaii broadband office and appropriates funds. Part VII: Appropriates funds for HITRC. Effective 7/1/2072; parts V, VI, VII, and VIII effective 7/1/2019. (SD3)

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

