

JAN 22 2007

A BILL FOR AN ACT

RELATING TO THE INNOVATION ECONOMY.

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

PART I.

1 SECTION 1. The legislature finds that Hawaii's desire for
2 economic growth that benefits all residents depends on building
3 our State's human resources.

4 Realization of Hawaii's longstanding desire for economic
5 diversification and sustainability turns on applying the State's
6 high skilled resources to the creation and adoption of
7 innovation across the economy.

8 This Act creates an innovation economy by:

9 (1) Encouraging the employees' retirement system to invest
10 in Hawaii venture capital by establishing the Hawaii
11 innovation investment fund, a professionally-managed
12 fund of funds in which it may invest, and removing any
13 liability to fiduciaries for investing moderate
14 amounts in Hawaii venture capital, all of which lead
15 to allowing the retirement system to achieve superior
16 investment returns for the pension fund, attracting

- 1 private investment capital and expertise, and
2 assisting the growth of Hawaii's technology companies
3 and high growth businesses;
- 4 (2) Improving the State's ability to measure the
5 productivity of Hawaii's economy as well measure and
6 assess the effectiveness of benchmarks enacted by the
7 legislature to improve our economic situation;
- 8 (3) Supporting the operations and programs of a State
9 operated technology incubator and innovation center in
10 the Kaka'ako district of downtown Honolulu;
- 11 (4) Establishing a local incubator facility to provide a
12 cohesive and integrated site for developing Hawaii's
13 digital media infrastructure for film and television
14 productions and interactive game development;
- 15 (5) Establishing a support and training system called the
16 music and enterprise learning experience program at
17 the University of Hawaii - Honolulu Community College
18 to develop the technical business skills required by
19 Hawaii's artists and music industry; and
- 20 (6) Enhancing the ability of the University of Hawaii's
21 office of technology transfer and economic development

1 to increase the number of licensing agreements and
2 commercialization by providing funds for the office of
3 technology transfer and economic development to enter
4 into a partnership with a qualified and experienced
5 private sector entity. This partnership will provide
6 the University of Hawaii with resources and expertise
7 to accelerate the number of discoveries disclosed and
8 the number of partnerships and arrangements to
9 commercialize those discoveries. Both the private
10 sector partner and the University of Hawaii will
11 contribute to this commercialization joint venture and
12 share in the return of their efforts.

13 PART II.

14 SECTION 2. The legislature finds that economic growth and
15 diversification throughout many communities have been enhanced
16 by the availability of venture capital funding for entrepreneurs
17 who are able to attract capital and build innovative new
18 ventures. Well-known regions such as Silicon Valley, Route 128
19 in Boston, Austin, Texas, and Research Triangle in North
20 Carolina have benefited greatly from the combination of
21 scientific research, an entrepreneurial culture driving high
22 technology growth, and funding availability for early stage

1 equity investments. Other areas similar in size and population
2 to Hawaii, including San Diego, Salt Lake City, Seattle, and
3 Boulder have also developed strong technology-based businesses
4 with the assistance of venture capital.

5 The source of this venture capital is derived largely
6 through employee pension funds. Of the approximately \$25
7 billion of venture investment taking place in 2006, over half
8 was provided by pension funds. Many public pension funds target
9 investments in-state to provide enhanced returns to the
10 pensioners and support the development of high-growth businesses
11 within local communities.

12 The employees' retirement system of the State of Hawaii has
13 committed approximately \$300,000,000 to the alternative asset
14 category including venture capital, but none of it is invested
15 in Hawaii. The legislature finds that this lack of investment
16 in Hawaii venture capital by the employees' retirement system may
17 be due to a lack of large-scale qualified investment
18 opportunities and concerns over the possible breach of fiduciary
19 duty and prudent investor rules related to early stage
20 investing. Some jurisdictions such as Arkansas and Michigan
21 encourage local investment by pension funds by relieving

1 fiduciaries of liability for investing in local venture capital.
2 Others, such as the state of Oregon, have legislated investment
3 by the public pension fund in local venture capital where
4 prudent.

5 The purpose of this Act is to encourage the employees'
6 retirement system to invest in Hawaii venture capital by
7 establishing the Hawaii innovation investment fund, a
8 professionally-managed fund of funds, in which the employees'
9 retirement system may invest. These actions will allow the
10 retirement system to achieve investment returns for the pension
11 fund, attract private investment capital and expertise, and
12 assist the growth of Hawaii's technology companies and high
13 growth businesses.

14 SECTION 3. Chapter 211F, Hawaii Revised Statutes, is amended
15 by adding a new section to be appropriately designated and to
16 read as follows:

17 "211F-__. **Definitions.** As used in this part:

18 "Agency" means each state or county board, commission,
19 department, or officer authorized by law to make rules, except
20 those in the legislative or judicial branches.

1 "Fiduciaries" means pension funds, corporations, limited
2 liability companies, partnerships, banks, savings institutions,
3 trust companies, and the officers, directors, trustees,
4 partners, managers, advisors, employees, and representatives of
5 the State employees' retirement system.

6 "Hawaii venture capital investments" means any of the
7 following investments in a business:

8 (1) Direct debt and equity investments in privately-held
9 Hawaii companies; and

10 (2) Investment in limited partnerships, limited liability
11 companies, or other entities that make private debt
12 and equity investments in privately held Hawaii
13 companies, whether directly or through investments in
14 limited partnerships, limited liability companies, or
15 other entities, including but not limited to
16 investments consisting of shares of capital stock,
17 convertible notes and other debt instruments,
18 securities, warrants, options, or other rights to
19 acquire such securities from privately held Hawaii
20 companies.

21 "Privately held Hawaii companies" means any privately held
22 corporation, limited liability company, partnership, or other

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1 entity that is headquartered, or has substantial operations, in
2 Hawaii.

3 "System" means the employees' retirement system of the State
4 of Hawaii."

5 SECTION 4. Chapter 211F, Hawaii Revised Statutes, is
6 amended by adding a new section to be appropriately designated
7 and to read as follows:

8 "211F-___ . Hawaii innovation investment fund. (a) There
9 is established the Hawaii innovation investment fund into which
10 shall be deposited:

- 11 (1) Moneys from the system;
12 (2) Moneys from private investors; and
13 (3) Interest payments and proceeds from investments made
14 by the fund.

15 (b) Moneys in the Hawaii innovation investment fund shall
16 be used to invest in Hawaii and other venture capital investment
17 opportunities.

18 (c) Should the system choose to invest a portion of its
19 assets in the fund, investment of the fund in one or more
20 professionally managed venture capital funds or one or more
21 venture capital fund of funds will be overseen by an advisory

1 board comprised of seven members: four members from the
2 business community with experience in venture capital investing,
3 fund of funds management, or as an entrepreneur growing
4 companies and achieving liquidity events; a representative of
5 the Board of the Employees' Retirement System; a representative
6 from the department of budget and finance; and a representative
7 of the department of business, economic development, and tourism
8 or an attached agency thereof. Members of the advisory board
9 shall be selected based on their knowledge and ability to
10 successfully manage venture capital investments, attract capital
11 from local and external sources, and assist companies to grow.

12 (d) Of the four members private sector members of the
13 advisory board, one shall be appointed by the governor, one
14 shall be appointed by the governor from a list of three names
15 nominated by the president of the senate, and one shall be
16 appointed by the governor from a list of three names nominated
17 by the speaker of the house of representatives for staggered
18 terms pursuant to section 26-34. The representative from the
19 department of business, economic development, and tourism shall
20 serve as chairperson of the board until such time as a
21 chairperson is elected by the board from the membership. The
22 board shall elect such officers as may be necessary.

1 The members of the advisory board shall serve without
2 compensation, but may be reimbursed for expenses, including
3 travel expenses, incurred in the performance of their duties.

4 (e) The advisory board shall be attached to the department
5 of business, economic development, and tourism for
6 administrative purposes.

7 (f) The advisory board shall adopt rules for its conduct
8 and management of the fund and shall use its best efforts to
9 maximize return on investments by developing investment
10 strategies for a diverse portfolio focused on investments in
11 Hawaii in order to attract private investment in the fund,
12 develop local investment expertise, stimulate the development of
13 emerging venture capital funds, and encourage opportunities for
14 co-investment with offshore funds.

15 The advisory board may hire a fund manager to direct the
16 investment operations. Any investments made through the Hawaii
17 innovation investment fund will be reported to the legislature
18 on an annual aggregated basis, indicating the number of
19 investments made into venture capital funds investing in Hawaii,
20 the amount of investment made in those venture capital funds,
21 and the number and amount of investments made by those venture
22 capital funds in Hawaii companies.

1 (g) A board member shall not participate in any
2 corporation decision to invest in, purchase from, sell to,
3 borrow from, loan to, contract with, or otherwise deal with any
4 person with whom or entity in which the board member has a
5 substantial financial interest.

6 (h) Any returns on investment made by tax-paying investors
7 in the fund shall be exempt from Hawaii state income and
8 franchise taxes under chapters 235, 241, and 431.

9 (i) Expenditures associated with operations and oversight
10 of the fund, exclusive of actual investments made, will be
11 provided through the Hawaii strategic development corporation
12 revolving fund."

13 SECTION 5. Section 88-119, Hawaii Revised Statutes is
14 amended to read as follows:

15 "**§88-119 Investments.** Investments may be made in:

16 (1) Real estate loans and mortgages. Obligations (as
17 defined in section 431:6-101) of any of the following
18 classes:

19 (A) Obligations secured by mortgages of nonprofit
20 corporations desiring to build multirental units
21 (ten units or more) subject to control of the

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1 government for occupancy by families displaced as
2 a result of government action;

3 (B) Obligations secured by mortgages insured by the
4 Federal Housing Administration;

5 (C) Obligations for the repayment of home loans made
6 under the Servicemen's Readjustment Act of 1944
7 or under Title II of the National Housing Act;

8 (D) Other obligations secured by first mortgages on
9 unencumbered improved real estate owned in fee
10 simple; provided that the amount of the
11 obligation at the time investment is made therein
12 shall not exceed eighty per cent of the value of
13 the real estate and improvements mortgaged to
14 secure it, and except that the amount of the
15 obligation at the time investment is made therein
16 may exceed eighty per cent but no more than
17 ninety per cent of the value of the real estate
18 and improvements mortgaged to secure it; provided
19 further that the obligation is insured or
20 guaranteed against default or loss under a
21 mortgage insurance policy issued by a casualty
22 insurance company licensed to do business in the

1 State. The coverage provided by the insurer
2 shall be sufficient to reduce the system's
3 exposure to not more than eighty per cent of the
4 value of the real estate and improvements
5 mortgaged to secure it. The insurance coverage
6 shall remain in force until the principal amount
7 of the obligation is reduced to eighty per cent
8 of the market value of the real estate and
9 improvements mortgaged to secure it, at which
10 time the coverage shall be subject to
11 cancellation solely at the option of the board.
12 Real estate shall not be deemed to be encumbered
13 within the meaning of this subparagraph by reason
14 of the existence of any of the restrictions,
15 charges, or claims described in section 431:6-
16 308;

17 (E) Other obligations secured by first mortgages of
18 leasehold interests in improved real estate;
19 provided that:

20 (i) Each leasehold interest at the time shall
21 have a current term extending at least two

1 years beyond the stated maturity of the
2 obligation it secures; and
3 (ii) The amount of the obligation at the time
4 investment is made therein shall not exceed
5 eighty per cent of the value of the
6 respective leasehold interest and
7 improvements, and except that the amount of
8 the obligation at the time investment is
9 made therein may exceed eighty per cent but
10 no more than ninety per cent of the value of
11 the leasehold interest and improvements
12 mortgaged to secure it;
13 provided further that the obligation is insured
14 or guaranteed against default or loss under a
15 mortgage insurance policy issued by a casualty
16 insurance company licensed to do business in the
17 State. The coverage provided by the insurer
18 shall be sufficient to reduce the system's
19 exposure to not more than eighty per cent of the
20 value of the leasehold interest and improvements
21 mortgaged to secure it. The insurance coverage
22 shall remain in force until the principal amount

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1 of the obligation is reduced to eighty per cent
2 of the market value of the leasehold interest and
3 improvements mortgaged to secure it, at which
4 time the coverage shall be subject to
5 cancellation solely at the option of the board;

6 (F) Obligations for the repayment of home loans
7 guaranteed by the department of Hawaiian home
8 lands pursuant to section 214(b) of the Hawaiian
9 Homes Commission Act, 1920; and

10 (G) Obligations secured by second mortgages on
11 improved real estate for which the mortgagor
12 procures a second mortgage on the improved real
13 estate for the purpose of acquiring the
14 leaseholder's fee simple interest in the improved
15 real estate; provided that any prior mortgage
16 does not contain provisions that might jeopardize
17 the security position of the retirement system or
18 the borrower's ability to repay the mortgage
19 loan.

20 The board may retain the real estate, including
21 leasehold interests therein, as it may acquire by
22 foreclosure of mortgages or in enforcement of

1 security, or as may be conveyed to it in satisfaction
2 of debts previously contracted; provided that all the
3 real estate, other than leasehold interests, shall be
4 sold within five years after acquiring the same,
5 subject to extension by the governor for additional
6 periods not exceeding five years each, and that all
7 the leasehold interests shall be sold within one year
8 after acquiring the same, subject to extension by the
9 governor for additional periods not exceeding one year
10 each;

11 (2) Government obligations, etc. Obligations of any of
12 the following classes:

13 (A) Obligations issued or guaranteed as to principal
14 and interest by the United States or by any state
15 thereof or by any municipal or political
16 subdivision or school district of any of the
17 foregoing; provided that principal of and
18 interest on the obligations are payable in
19 currency of the United States; or sovereign debt
20 instruments issued by agencies of, or guaranteed
21 by foreign governments;

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- 1 (B) Revenue bonds, whether or not permitted by any
2 other provision hereof, of the State or any
3 municipal or political subdivision thereof,
4 including the board of water supply of the city
5 and county of Honolulu, and street or improvement
6 district bonds of any district or project in the
7 State; and
- 8 (C) Obligations issued or guaranteed by any federal
9 home loan bank including consolidated federal
10 home loan bank obligations, the Home Owner's Loan
11 Corporation, the Federal National Mortgage
12 Association, or the Small Business
13 Administration;
- 14 (3) Corporate obligations. Below investment grade or
15 nonrated debt instruments, foreign or domestic, in
16 accordance with investment guidelines adopted by the
17 board;
- 18 (4) Preferred and common stocks. Shares of preferred or
19 common stock of any corporation created or existing
20 under the laws of the United States or of any state or
21 district thereof or of any country;

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- 1 (5) Obligations eligible by law for purchase in the open
2 market by federal reserve banks;
- 3 (6) Obligations issued or guaranteed by the International
4 Bank for Reconstruction and Development, the
5 Inter-American Development Bank, the Asian Development
6 Bank, or the African Development Bank;
- 7 (7) Obligations secured by collateral consisting of any of
8 the securities or stock listed above and worth at the
9 time the investment is made at least fifteen per cent
10 more than the amount of the respective obligations;
- 11 (8) Insurance company obligations. Contracts and
12 agreements supplemental thereto providing for
13 participation in one or more accounts of a life
14 insurance company authorized to do business in Hawaii,
15 including its separate accounts, and whether the
16 investments allocated thereto are comprised of stocks
17 or other securities or of real or personal property or
18 interests therein;
- 19 (9) Interests in real property. Interests in improved or
20 productive real property in which, in the informed
21 opinion of the board, it is prudent to invest funds of
22 the system. For purposes of this paragraph, "real

1 property" includes any property treated as real
2 property either by local law or for federal income tax
3 purposes. Investments in improved or productive real
4 property may be made directly or through pooled funds,
5 including common or collective trust funds of banks
6 and trust companies, group or unit trusts, limited
7 partnerships, limited liability companies, investment
8 trusts, title-holding corporations recognized under
9 section 501(c) of the Internal Revenue Code of 1986,
10 as amended, similar entities that would protect the
11 system's interest, and other pooled funds invested on
12 behalf of the system by investment managers retained
13 by the system;

14 (10) Other securities and futures contracts. Securities
15 and futures contracts in which in the informed opinion
16 of the board it is prudent to invest funds of the
17 system, including currency, interest rate, bond, and
18 stock index futures contracts and options on the
19 contracts to hedge against anticipated changes in
20 currencies, interest rates, and bond and stock prices
21 that might otherwise have an adverse effect upon the
22 value of the system's securities portfolios; covered

* 1 put and call options on securities; and stock; whether
2 or not the securities, stock, futures contracts, or
3 options on futures are expressly authorized by or
4 qualify under the foregoing paragraphs, and
5 notwithstanding any limitation of any of the foregoing
6 paragraphs (including paragraph (4)); and

- 7 (11) Private placements. Investments in institutional
8 blind pool limited partnerships, limited liability
9 companies, or direct investments that make private
10 debt and equity investments in privately held
11 companies, including but not limited to investments in
12 Hawaii high technology businesses or venture capital
13 investments that, in the informed opinion of the
14 board, are appropriate to invest funds of the system.
15 In evaluating venture capital investments, the board
16 shall consider ~~{, among other things, the impact an~~
17 ~~investment may have on job creation in Hawaii and on~~
18 ~~the state economy.}~~ Hawaii venture capital investment
19 opportunities unless, under the circumstances, it is
20 not prudent to do so. At any given time, the system
21 shall have \$100 million allocated for Hawaii venture
22 capital investments unless, under the circumstances,

1 it is not prudent to do so. The system may contract
2 with one or more management companies to manage and
3 invest these moneys. The system may enter into
4 contracts for the provision of investment advice or
5 other services that the board deems reasonable and
6 necessary to fulfill its duties.

7 Investment of these funds may be made in whole or
8 in part through the Hawaii Innovation Investment Fund.

9 (A) Limited investment in privately-held Hawaii
10 companies authorized.

11 (i) Unless prohibited by federal law or
12 regulations promulgated thereunder, and
13 notwithstanding any law to the contrary,
14 or rules adopted pursuant thereto,
15 fiduciaries may invest in Hawaii venture
16 capital investments up to two and one-
17 half per cent of their funds eligible for
18 investment; provided that their total
19 outlay in Hawaii venture capital
20 investments shall not be more than ten
21 per cent of their capital, which includes
22 common capital stock, certified surplus,

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1 capital notes, and undivided profits.
2 Fiduciaries acting in accordance with
3 this section shall not be in violation of
4 any prudent person or prudent investor
5 rule. If any venture capital investments
6 in privately held Hawaii companies are in
7 violation of this chapter by virtue of a
8 subsequent reduction in the amount of
9 funds eligible for investment, the
10 fiduciary shall not be in violation of
11 any prudent person or prudent investor
12 rule.

13 (ii) The director of any agency whose duties
14 and powers include regulating the
15 activities of any fiduciaries governed by
16 this chapter may adopt rules for the
17 implementation of this chapter in
18 accordance with chapter 91."

1

PART III.

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SECTION 6. Competing in the global economy will continue to require investment in new technologies and human resources. The traditional measures of success, including growth of the gross domestic product, will continue to be important but will not help the State determine whether or not Hawaii is prepared to compete in the future. To determine how well Hawaii is preparing its resources, the legislature recognizes that the State will need to track the effectiveness of training in science, technology, math, engineering and computer skills. The State will also need to look at levels of investment capital, research, and innovation. Importantly, assurance is needed that the investments made by the State are productive.

The Hawaii Institute for Policy Affairs in its *2005 Policy Review*, recommends that Hawaii set goals and invest in the collection of data needed to track progress in what it called "new economy" areas. In particular, Hawaii Institute for Policy Affairs recommended, "collection of new data such as service exports, training, and education outside of the traditional school system, the self-sufficiency wage, job creation, and other impacts of business tax credits, and quality of life

1 indicators." Currently, there are no data on service exports,
2 except for tourism. Such data are expensive and difficult to
3 collect through general surveys. A focused effort is needed to
4 build a database of these and other measures of an innovative
5 economy.

6 Evaluations of economic impacts and growth are the
7 responsibility of the department of business, economic
8 development, and tourism. Economists, whose primary
9 responsibility is the measurement of economic impacts, are a
10 primary resource for conducting economic analyses of existing
11 economic incentive programs.

12 The purpose of part III of this Act is to improve the
13 State's ability to measure the productivity of and progress
14 toward achieving innovation in Hawaii's economy as well as to
15 assess the effectiveness of measures enacted by the legislature
16 to improve Hawaii's economic situation. Specifically, it will:

- 17 (1) Task the department of business, economic development,
18 and tourism (henceforth the department) to accomplish
19 this purpose;
- 20 (2) Provide funding and positions for the department to
21 address these tasks.

1 SECTION 7. Section 201-3, Hawaii Revised Statutes, is
2 amended by adding a new subsection (b) to read as follows:

3 **"§201-3 Specific research and promotional functions of the**
4 **department.** Without prejudice to its general
5 functions and duties the department of business,
6 economic development, and tourism shall have specific
7 functions in the following areas:

8 (1) Industrial development. The department shall
9 determine through technical and economic surveys the
10 profit potential of new or expanded industrial
11 undertakings; develop through research projects and
12 other means new and improved industrial products and
13 processes; promote studies and surveys to determine
14 consumer preference as to design and quality and to
15 determine the best methods of packaging, transporting,
16 and marketing the State's industrial products;
17 disseminate information to assist the present
18 industries of the State, to attract new industries to
19 the State, and to encourage capital investment in
20 present and new industries in the State; assist
21 associations of producers and distributors of
22 industrial products to introduce such products to

1 consumers; and make such grants or contracts as may be
2 necessary or advisable to accomplish the foregoing;

3 (2) Land development. The department shall encourage the
4 most productive use of all land in the State in
5 accordance with a general plan developed by the
6 department; encourage the improvement of land tenure
7 practices on leased private lands; promote an
8 informational program directed to landowners,
9 producers of agricultural and industrial commodities,
10 and the general public regarding the most efficient
11 and most productive use of the lands in the State; and
12 make such grants or contracts as may be necessary or
13 advisable to accomplish the foregoing;

14 (3) Credit development. The department shall conduct a
15 continuing study of agricultural and industrial credit
16 needs; encourage the development of additional private
17 and public credit sources for agricultural and
18 industrial enterprises; promote an informational
19 program to acquaint financial institutions with
20 agricultural and industrial credit needs and the
21 potential for agricultural and industrial expansion,
22 and inform producers of agricultural and industrial

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1 products as to the manner in which to qualify for
2 loans; and make such grants or contracts as may be
3 necessary or advisable to accomplish the foregoing;

4 (4) Promotion. The department shall disseminate
5 information developed for or by the department
6 pertaining to economic development to assist present
7 industry in the State, attract new industry and
8 investments to the State, and assist new and emerging
9 industry with good growth potential or prospects in
10 jobs, exports, and new products. The industrial and
11 economic promotional activities of the department may
12 include the use of literature, advertising,
13 demonstrations, displays, market testing, lectures,
14 travel, motion picture and slide films, and such other
15 promotional and publicity devices as may be
16 appropriate; ~~and~~

17 (5) Tourism research and statistics. The department shall
18 maintain a program of research and statistics for the
19 purpose of:

20 (A) Measuring and analyzing tourism trends;

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- 1 (B) Providing information and research to assist in
2 the development and implementation of state
3 tourism policy;
- 4 (C) Encouraging and arranging for the conduct of
5 tourism research and information development
6 through voluntary means or through contractual
7 services with qualified agencies, firms, or
8 persons; and
- 9 (D) Providing tourism information to policy makers,
10 the public, and the visitor industry. This
11 includes:
- 12 (i) Collecting and publishing visitor-related
13 data including visitor arrivals, visitor
14 characteristics, and expenditures;
- 15 (ii) Collecting and publishing hotel-related
16 statistics including the number of units
17 available, occupancy rates, and room rates;
- 18 (iii) Collecting and publishing airline-related
19 data including seat capacity and number of
20 flights;

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- 1 (iv) Collecting information and conducting
- 2 analyses of the economic, social, and
- 3 physical impacts of tourism on the State;
- 4 (v) Conducting periodic studies of the impact of
- 5 ongoing marketing programs of the Hawaii
- 6 tourism authority on Hawaii's tourism
- 7 industry, employment in Hawaii, state taxes,
- 8 and the State's lesser known and
- 9 underutilized destinations; and
- 10 (vi) Cooperate with the Hawaii tourism authority
- 11 and provide it with the above information in
- 12 a timely manner [and];

13 (6) Assessing the effectiveness of economic development
14 initiatives, specifically related to the innovation
15 economy proposals enumerated in Acts ____, ____, and
16 ____."

17 SECTION 8. Section 383-95, Hawaii Revised Statutes, is
18 amended to read as follows:

19 **"§383-95 Disclosure of information.** (a) Except as
20 otherwise provided in this chapter, information obtained from
21 any employing unit or individual pursuant to the administration
22 of this chapter and determinations as to the benefit rights of

1 any individual shall be held confidential and shall not be
2 disclosed or be open to public inspection in any manner
3 revealing the individual's or employing unit's identity. Any
4 claimant (or the claimant's legal representative) shall be
5 supplied with information from the records of the department to
6 the extent necessary for the proper presentation of the
7 claimant's claim in any proceeding under this chapter. Subject
8 to such restrictions as the director may by rule prescribe, and
9 costs incurred in furnishing the information are reimbursed to
10 the department and all safeguards are established as are
11 necessary to ensure that information furnished by the department
12 is used only for authorized purposes, the information and
13 determinations may be made available to:

- 14 (1) Any federal or state agency charged with the
15 administration of an unemployment compensation law or
16 the maintenance of a system of public employment
17 offices;
- 18 (2) The Bureau of Internal Revenue of the United States
19 Department of Treasury;
- 20 (3) Any federal, state, or municipal agency charged with
21 the administration of a fair employment practice or
22 anti-discrimination law;

1 (4) Any other federal, state, or municipal agency if the
2 director deems that the disclosure to the agency
3 serves the public interest; and

4 (5) Any federal, state, or municipal agency if the
5 disclosure is authorized under section 303 of the
6 Social Security Act and section 3304 of the Internal
7 Revenue Code of 1986, as amended.

8 (b) Information obtained in connection with the
9 administration of the employment service may be made available
10 to persons or agencies for purposes appropriate to the operation
11 of a public employment service.

12 (c) Upon requests therefore the department shall furnish
13 to any agency of the United States charged with the
14 administration of public works or assistance through public
15 employment, and may furnish to any state agency similarly
16 charged, the name, address, ordinary occupation and employment
17 status of each recipient of benefits and the recipient's rights
18 to further benefits under this chapter.

19 (d) The department may request the comptroller of the
20 currency of the United States to cause an examination of the
21 correctness of any return or report of any national banking
22 association rendered pursuant to this chapter, and may in

1 connection with the request transmit any of the report or return
2 to the comptroller of the currency of the United States as
3 provided in section 3305(c) of the federal Internal Revenue
4 Code.

5 (e) The director of the Business, Economic Development and
6 Tourism may identify the types of data necessary from other
7 State departments required to perform the analyses of innovation
8 economy initiatives. Data shall be provided at an aggregate
9 level such as not to compromise the identity of individual tax
10 payers or businesses."

11 PART IV.

12 SECTION 9. Kajima Urban Development International and
13 Phase 3 Properties competitively bid for, and was selected by
14 Kamehameha Schools, as the developer of the Asia Pacific
15 International Research Center, a 400,000 square foot class 'A'
16 life sciences research complex on 4.98 acres located in Kaka'ako
17 and makai of Ala Moana Boulevard, adjacent to the University of
18 Hawaii John A. Burns School of Medicine.

19 Kamehameha Schools and Kajima Urban Development
20 International and Phase 3 Properties are negotiating with the
21 high technology development corporation, an agency of the State
22 of Hawaii, to commit to a ten year lease agreement secured with

1 a state guaranty for approximately 99,000 square feet of
2 laboratory and office space on three floors. The high
3 technology development corporation will operate a technology
4 incubator and innovation center, which will support the efforts
5 of the University of Hawaii's John A. Burns School of Medicine,
6 and related bioscience research institutions.

7 There are local fledgling start-up high tech companies
8 trying to attain required financing. Once they achieve such
9 financing it is critical that they commit their core capital to
10 research, rather than have the core capital tied up in onerous
11 credit enhancement tools, such as security deposits or letters
12 of credit required by the lending community, in order to finance
13 complex and expensive wet laboratory infrastructure
14 developments. A guaranty of the lease agreement by the state
15 for the high technology development corporation to lease a
16 portion of the Asia Pacific International Research Center will
17 reduce the risk and cost of this unique project for these start-
18 up companies and thereby provide the necessary initial boost to
19 Hawaii's life science industry.

20 The statutory purpose and mission of the corporation is to
21 grow Hawaii's high technology industry including its fledging
22 life science industry. In order for the high technology

1 development corporation to grow these tech industries, it must
2 be able to provide y incubator and laboratory facilities to
3 qualified start-up companies.

4 The project allows the State to become proactive in growing
5 incubation and innovation space without the burden or cost of
6 constructing the building.

7 Kamehameha Schools is committed to redeveloping other
8 buildings in the area to support innovation industries. Phase 2
9 of Kamehameha Schools' development more than doubles innovation
10 space in Kaka'ako for future cluster growth, ultimately
11 resulting in a total of 400,000 square feet of laboratory and
12 office space dedicated to the tech industry. The 99,000 square
13 feet of the Asia Pacific International Research Center
14 represents less than twenty-five percent of the total Kamehameha
15 Schools development in Kaka'ako.

16 The negotiations between the high technology development
17 corporation and the department of budget and finance with
18 Kamehameha Schools and/or Kajima Urban Development International
19 and Phase 3 Properties shall consider as a means to reducing
20 cost to the state:

21 (1) An estimated \$80,000,000 in private sector investment;

- 1 (2) The reasonable application of amounts that result from
2 a \$28,000,000 federal new market tax credit to reduce the
3 State's rental costs;
- 4 (3) The replacement of incubation and innovation space
5 when the high technology development corporation land lease
6 agreement with the University of Hawaii for Manoa innovation
7 center expires in ten years;
- 8 (4) The speed at which the private sector is able to
9 construct new projects, particularly wet laboratories;
- 10 (5) A monetary contribution in the form of a lease reserve
11 fund by Kamehameha Schools and Kajima Urban Development
12 International/Phase3 to reduce the effective cost of the lease
13 agreement to the State for ten years;
- 14 (6) Commitments by Kamehameha Schools and/or Kajima Urban
15 Development International and Phase 3 Properties to pre-lease
16 two-thirds of the space for the State;
- 17 (7) Enhancements that accrue or result from this
18 development; and
- 19 (8) Any and all other appropriate considerations as
20 determined by the high tech development corporation and
21 department of budget and finance.

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1 SECTION 10. The State high technology development
2 corporation, with assistance from the department of business,
3 economic development, and tourism, shall negotiate with the
4 developers, a lease agreement, terms acceptable and satisfactory
5 to the corporation's board of directors and the director of
6 finance including a lease guaranty for a period of ten years for
7 approximately 99,000 square feet of laboratory and office space
8 in the Asia Pacific International Research Center in Kaka'ako.

9 SECTION 11. The provisions of this Act are not intended
10 to, nor shall they restrict or constrain the lease negotiations
11 of the high technology development corporation and the
12 department of budget and finance with the developers and owners
13 of the Asia Pacific International Research Center. The use of
14 the funds shall be for the purposes provided herein, but the
15 expenditure of the funds shall be at the discretion of the
16 director of finance.

17 PART V.

18 SECTION 12. The legislature finds that the digital media
19 industry is a fast-growing niche between the film and technology
20 industries that has begun to emerge in Hawaii as the result of
21 key natural and invested resources in the State. Hawaii's

1 environment is especially suited for this low-polluting industry
2 that creates high-skill, high-paying jobs.

3 Digital media activities include digital filmmaking and
4 visual effects, television and feature film pre-production and
5 post-production, sound design, interactive video game
6 development, computer animation, creative software design, and
7 dynamic Web design and distribution.

8 This growth industry requires a local incubator facility to
9 provide a cohesive and integrated site for developing Hawaii's
10 digital media infrastructure for film and television productions
11 and interactive game development. This incubator would be a
12 state-of-the-art mixed use facility that combines industry,
13 government, and academic entities. In addition to providing a
14 collaborative learning environment for students, faculty, and
15 professionals in the field, the facility will serve as an
16 incubator for digital media businesses and as a research and
17 development lab for the creation of intellectual property.

18 SECTION 13. The department of business, economic
19 development, and tourism, in coordination with the University of
20 Hawaii, will oversee the leasing, operating, and maintenance of
21 a digital media incubator facility. The department may enter
22 into contracts with other government agencies, the county

1 Honolulu Community College to develop the technical business
2 skills required by Hawaii's artists and music industry.

3 Hawaii's music industry is a growing segment of Hawaii's
4 creative industries sector, with a growing popularity reaching
5 far beyond the shores of our island state. Full recognition of
6 the merits of Hawaiian music came in 2005 when the National
7 Academy of Recording Arts and Sciences announced the creation of
8 a Hawaiian music category in its annual Grammy Awards, the
9 world's most prestigious music awards program.

10 It has long been noted that while Hawaii has an unusually
11 high concentration of raw musical talent and industry
12 professionals, it lacks the technical support infrastructure to
13 assist individuals in the progression of their careers and
14 businesses.

15 The University of Hawaii - Honolulu Community College has
16 been working to build alliances with national and local members
17 of the entertainment industry for the music and enterprise
18 learning experience program. The music and enterprise learning
19 experience program combines short-term professional training
20 workshops, songwriter seminars, an associate degree program in
21 Music Business and Production, and a transfer program that allows
22 students to matriculate in Belmont University's music and

1 entertainment management programs, one of the premier music and
2 entertainment educational programs in the nation.

3 SECTION 15. There is established at the University of
4 Hawaii Honolulu Community College campus the music and
5 enterprise learning experience program to expand the existing
6 industry capacity, and to create new technological,
7 intercultural, and genre-bending forms of music through
8 creativity and professional business expertise. The music and
9 enterprise learning experience program will be developed around
10 three primary components: artist creativity, entertainment
11 business expertise, and technical production skills. The
12 program will collaborate with Belmont University on the joint
13 use of their curriculum, technical facilities and equipment
14 specifications, training, dual credit course offerings, and will
15 also offer internships in some of the most varied music
16 environments in the world.

17 The program will be seeded through a title III Developing
18 Institutions grant which has been awarded to Honolulu Community
19 College Native Hawaiian Center, and will provide for some basic
20 program development of course offerings in coordination with
21 Belmont University.

22

PART VII

1 SECTION 16. Universities that generate new knowledge and
2 discoveries can be important contributors in developing a
3 state's technology-based economy. But for a university to make
4 that contribution there must be effective mechanisms to move
5 innovation into the marketplace. At the University of Hawaii,
6 commercialization assistance is provided by the office of
7 technology transfer and economic development. Activities
8 include securing patents, seeking licensing opportunities, and
9 assisting university researchers to transform ideas and
10 innovations into products ready for commercialization. The
11 office of technology transfer and economic development's ability
12 to fulfill its mandate would be enhanced by collaboration with
13 commercialization experts and funding from the private sector.

14 The purpose of this part is to enhance the ability of the
15 office of technology transfer and economic development to
16 increase commercialization of the University of Hawaii
17 discoveries by providing funds to the department of business,
18 economic development and tourism to fund a partnership with a
19 qualified and experienced private sector entity to work with the
20 office of technology transfer and economic development. This
21 partnership will provide the University of Hawaii with resources
22 and expertise to ramp up the number of discoveries disclosed and

1 the number of partnerships and arrangements to commercialize
2 those discoveries. The department of business, economic
3 development, and tourism; the private sector partner; and the
4 University of Hawaii will contribute to this commercialization
5 joint venture; and the private sector partner and the University
6 of Hawaii will share in the return of their efforts.

7 PART VIII

8 SECTION 17. There is appropriated out of the general
9 revenues of the State of Hawaii the sum of \$250,000 or so much
10 thereof as may be necessary for fiscal year 2007-2008, and the
11 sum of \$415,000 or so much thereof as may be necessary for the
12 fiscal year 2008-2009, for the purposes of improving the State's
13 ability to measure the productivity of and progress toward
14 achieving innovation in Hawaii's economy as well as to assess
15 the effectiveness of measures enacted by the legislature to
16 improve Hawaii's economic situation under part III of this Act.
17 Of the sum appropriated, \$150,000 in fiscal year 2007-2008 and
18 \$150,000 in fiscal years 2008-2009 shall be for the purpose of
19 hiring two permanent full-time equivalent economist positions in
20 the department of business, economic development, and tourism.
21 The sum appropriated shall be expended by the department of
22 business, economic development, and tourism.

1 SECTION 18. There is appropriated out of the general
2 revenues of the State of Hawaii the sum of \$250,000 or so much
3 thereof as may be necessary for the fiscal year 2007-2008 and
4 the sum of \$250,000 or so much thereof as may be necessary for
5 the fiscal year 2008-2009 for the lease agreement and guaranty
6 between the high technology development corporation and the
7 developers or owners of the Asia Pacific International Research
8 Center to carry out the purposes of this Act. The sums
9 appropriated shall be expended by the high technology
10 development corporation, an agency administratively attached to
11 the department of business, economic development, and tourism.

12 SECTION 19. There is appropriated out of the general
13 revenues of the State of Hawaii the sum of \$956,000, or so much
14 thereof as may be necessary, for fiscal year 2007-2008 and the
15 sum of \$436,300, or so much thereof as may be necessary, for
16 fiscal year 2008-2009 for the purpose of facility improvements,
17 equipment purchase, leasing, operating, and maintaining a
18 digital media incubator facility. Of the sum appropriated,
19 \$599,000 in fiscal year 2007-2008, and \$380,300 in fiscal year
20 2008-2009 shall be expended by the department of business,
21 economic development, and tourism for the purposes of this Act.
22 Of the sum appropriated, \$357,000 in fiscal year 2007-2008, and

1 \$56,000 in fiscal year 2008-2009 shall be expended by the
2 University of Hawaii Honolulu Community College for the purposes
3 of this Act.

4 SECTION 20. There is appropriated out of the general
5 revenues of the State of Hawaii the sum of \$2,425,500, or so
6 much thereof as may be necessary, for fiscal year 2007-2008 and
7 the sum of \$240,000, or so much thereof as may be necessary, for
8 fiscal year 2008-2009 to carry out the purpose of leasing,
9 operating, and maintaining a music & entertainment business
10 training center. The sum appropriated shall be expended by the
11 University of Hawaii Honolulu Community College for the purposes
12 of this Act.

13 SECTION 21. There is appropriated out of the general
14 revenues of the State of Hawaii the sum of \$250,000, or so much
15 thereof as may be necessary for fiscal year 2007-2008, and
16 \$250,000, or so much thereof as may be necessary for fiscal year
17 2008-2009 for the public-private University research
18 commercialization partnership. The sum appropriated shall be
19 expended by the department of business, economic development,
20 and tourism for the purposes of this Act.

21 SECTION 22. Any sum invested in the Hawaii innovation
22 investment fund by the employees' retirement system, private

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1 investors, or other sources up to \$100,000,000 may be expended
2 by the Hawaii strategic development corporation in fiscal years
3 2007-2008 and 2008-2009 for the purposes of this Act.

4 SECTION 23. Statutory material to be repealed is bracketed
5 and stricken. New statutory material is underscored.

6 SECTION 24. This Act shall take effect on July 1, 2007.

7
8 INTRODUCED BY: _____

9 BY REQUEST
10
11

JUSTIFICATION SHEET

DEPARTMENT: Business, Economic Development, and Tourism

TITLE: A BILL FOR AN ACT RELATING TO THE INNOVATION ECONOMY.

PURPOSE:

- (1) Encourage the ERS to invest in Hawaii venture capital by establishing the Hawaii Innovation Investment Fund, a professionally managed fund of funds in which it may invest, moderate amounts in Hawaii venture capital, allowing the retirement system to achieve investment returns for the pension fund, attracting private investment capital and expertise, and assisting the growth of Hawaii's technology companies and high growth businesses;
- (2) Improve the State's ability to measure the productivity of Hawaii's innovation economy;
- (3) Support the operations and programs of a state operated technology incubator and innovation center in the Kakaako district of downtown Honolulu;
- (4) Establish a local incubator facility to provide a cohesive and integrated site for developing Hawaii's digital media infrastructure for film and television productions and interactive game development;
- (5) Establish a support and training system called the Music and Enterprise Learning Experience (MELE) program at the University of Hawaii - Honolulu Community College (HCC) to develop the technical business skills required by Hawaii's artists and music industry; and
- (6) Enhance the ability of the University of Hawaii's office of technology transfer and economic development (OTTED) to increase the number of licensing agreements and commercialization by providing funds for OTTED to enter into a partnership with a qualified and experienced private sector entity. This partnership will provide the University of Hawaii with resources and expertise

to accelerate the number of discoveries disclosed and the number of partnerships and arrangements to commercialize those discoveries. Both the private sector partner and the University of Hawaii will contribute to this commercialization joint venture and share in the return of their efforts.

MEANS:

- (1) Establish the Hawaii Innovation Investment Fund in Chapter 211-F.
- (2) Revise chapter 201-3 and Section 383-95 in Hawaii Revised Statutes.
- (3) Provide funding for other initiatives.

JUSTIFICATION:

Hawaii's continued prosperity and ability to preserve its quality of life and preferred life-style depends on the state's investment in human resource and innovation as the driver of economic development and as the State's response to the challenge of globalization.

Impact on the public: Innovation will grow Hawaii's traditional industries with increased productivity and higher-paying jobs.

Impact on the department and other agencies: Addition of new responsibilities in DBEDT, the Hawaii Technology Development Corporation, and the University of Hawaii. Permits release of information in aggregate form from the Department of Labor and Industrial Relations to DBEDT.

GENERAL FUND:

\$4,131,500 for FY 2007-2008 and \$1,591,300 for FY 2008-2009, for the purposes of improving the State's ability to measure the productivity of and progress toward achieving innovation in Hawaii's economy. Of the sum appropriated, \$250,000 in fiscal year 2007-2008 and \$415,000 in fiscal years 2008-2009 shall be for the purpose of hiring two permanent full-time equivalent economist positions; \$250,000 annually in the fiscal year 2007-2008 and 2008-2009 or so much as may be necessary for the lease agreement and guaranty between the high technology development corporation and the developers

and/or owners of the Asia Pacific International Research Center; \$956,000 for fiscal year 2007-2008 and \$436,300 for fiscal year 2008-2009 for the purpose of facility improvements, equipment purchase, leasing, operating, and maintaining a digital media incubator facility. \$2,425,500 for fiscal year 2007-2008 and \$240,000 for fiscal year 2008-2009 to carry out the purpose of leasing, operating, and maintaining a music & entertainment business training center. The sum appropriated shall be expended by the University of Hawaii Honolulu Community College for the purposes of this Act; \$250,000 for fiscal year 2007-2008, and \$250,000, for fiscal year 2008-2009 for the public/private University research commercialization partnership. The sum appropriated shall be expended by the department of business, economic development and tourism for the purposes of this Act.

OTHER FUNDS: None.

PPBS PROGRAM DESIGNATION: BED

OTHER AFFECTED AGENCIES: DLIR, ERS, UH.

EFFECTIVE DATE: July 1, 2007.