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# A BILL FOR AN ACT

RELATING TO TRANSPORTATION.

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

1           SECTION 1. The legislature finds that air transportation  
2 is uniquely important to the people of the State of Hawaii. The  
3 construction of surface transportation systems linking the  
4 various islands of Hawaii on the comprehensive basis that  
5 prevails elsewhere in the United States is impractical.  
6 Accordingly, the people of the State of Hawaii must rely  
7 extensively on air travel for their basic daily personal  
8 transportation needs and for the shipment of goods that are  
9 important to their daily lives. Similarly, visitors to the  
10 State must often rely on local air travel services provided by  
11 Hawaii air carriers for transportation among the various  
12 islands. This makes reliable air transportation among the  
13 islands of the State vital to the growth of the statewide  
14 tourism industry. The recent interisland air travel fare wars,  
15 the conduct of which is currently subject to litigation, has  
16 resulted in a dramatic and severe loss of revenues by  
17 interisland airlines. The legislature further finds that  
18 failure to provide relief to these critical transportation



1 providers is likely to result in reduced interisland travel  
2 opportunities and, consequently, to visitor decline on the  
3 neighbor islands. This will have severe negative impacts on  
4 businesses statewide. The loss of air transportation among our  
5 islands and from points of origin in Hawaii other than Honolulu  
6 to destination points on the mainland not covered by major  
7 airlines would result in a significant reduction in employment  
8 and the quality of life for the citizens of Hawaii.

9 The legislature also finds that financial assistance for  
10 those hardest hit by this loss of revenues is not available  
11 through a loan from a federal or state agency. Such financial  
12 assistance can best be provided through a loan guarantee by the  
13 State to assist Hawaii interisland air carriers when other  
14 government resources are not available and a loan from a private  
15 lending institution can only be secured through the use of a  
16 guarantee from the State. The legislature finds and declares  
17 that the issuance of loan guarantees under this Act is in the  
18 public interest and for the public health, safety, and general  
19 welfare of the State.

20 The purpose of this Act is to assist Hawaii interisland air  
21 carriers whose operations and revenues have been adversely  
22 affected by the recent interisland travel fare wars by



1 authorizing the department of business, economic development,  
2 and tourism, through its director, to guarantee loans from  
3 private lending institutions.

4 SECTION 2. Loans guaranteed by the department of business,  
5 economic development, and tourism. (a) The department of  
6 business, economic development, and tourism, through its  
7 director, may guarantee up to ninety per cent of the principal  
8 balance of a loan made by a private lending institution to a  
9 Hawaii air carrier; provided that at no time shall the aggregate  
10 amount of the State's liability, contingent or otherwise, on  
11 loans guaranteed by this Act exceed \$ .

12 As used in this Act, "Hawaii air carrier" means an air  
13 carrier that is certified under Federal Aviation Regulation part  
14 121, serving the Hawaii interisland market as of March 29, 2008,  
15 and providing the carriage of persons or property by air for  
16 compensation or hire between any two points, both of which are  
17 within the State of Hawaii.

18 (b) The loan guarantee shall be for a term of not more  
19 than ten years.

20 (c) The director shall not approve a loan guarantee unless  
21 the Hawaii air carrier provides reasonable assurance that the  
22 loan can and will be repaid pursuant to its terms.



1 (d) Funds provided by the guaranteed loan may be used for  
2 working capital, except that a loan guarantee shall not be  
3 granted if the granting of the loan guarantee would directly or  
4 indirectly serve the following purposes:

5 (1) Satisfy debts arising prior to the effective date of  
6 the loan guarantee;

7 (2) Provide funds, directly or indirectly, for payment,  
8 distribution, or as a loan to owners, partners, or  
9 shareholders of the Hawaii air carrier; or

10 (3) Replenish funds heretofore used for any of the above  
11 purposes in anticipation of applying for a loan  
12 guarantee under this Act.

13 (e) A Hawaii air carrier that obtains a loan guarantee  
14 under this Act, if the carrier uses any moneys under the loan  
15 guarantee to hire new employees, shall give first preference to  
16 hiring employees of a Hawaii air carrier who have been displaced  
17 after March 30, 2008; provided that the Hawaii air carrier may  
18 not refuse to hire or employ any person because of race, sex,  
19 sexual orientation, age, religion, color, ancestry, disability,  
20 marital status, or arrest and court record.

21 (f) The director may set additional terms and conditions  
22 on the granting of the loan guarantee. When an application for



1 a loan guarantee is approved by the director, the director shall  
2 issue to the private lending institution a guarantee for the  
3 percentage of the loan guaranteed. The private lending  
4 institution shall collect all payments from the Hawaii air  
5 carrier and otherwise service the loan.

6 (g) The procedures and forms used by the Air  
7 Transportation Stabilization Board of the United States  
8 Department of the Treasury shall be adopted for use under this  
9 Act.

10 (h) The Hawaii air carrier shall:

11 (1) Expend the loan in accordance with the provisions of  
12 this Act;

13 (2) Keep the director informed of any and all changes in  
14 the security and other major changes in the Hawaii air  
15 carrier's operation; and

16 (3) Promptly provide any information and documents to the  
17 department upon request.

18 (i) During the term of the loan guarantee, the Hawaii air  
19 carrier shall submit to the department audited annual financial  
20 statements consisting of a balance sheet, income statement, and  
21 a statement of cash flows. These reports shall be submitted no  
22 later than four months after the close of the Hawaii air



1 carrier's fiscal year. The department may require the Hawaii  
2 air carrier to file interim financial statements and reports as  
3 deemed necessary by the director.

4 SECTION 3. There is created a trust fund in the state  
5 treasury to be known as the Hawaii interisland air carrier loan  
6 guarantee trust fund which shall serve as the reserve for all  
7 loans guaranteed under this Act.

8 SECTION 4. There is appropriated out of the general  
9 revenues of the State of Hawaii the sum of \$ or so much  
10 thereof as may be necessary for fiscal year 2008-2009 to be  
11 deposited into the Hawaii interisland air carrier loan guarantee  
12 trust fund.

13 The sum appropriated shall be expended by the department of  
14 business, economic development, and tourism, if and when  
15 necessary, for the purposes of this Act.

16 SECTION 5. The provisions of this Act shall be performed  
17 to the extent permissible under the United States Constitution  
18 and federal law without causing a violation of the United States  
19 Constitution, federal grant agreements, federal law, or federal  
20 regulations.

21 SECTION 6. This Act shall take effect upon approval;  
22 provided that:



- 1 (1) Section 4 shall take effect on July 1, 2008; and
- 2 (2) The Act shall be repealed on June 30, 2020.



**Report Title:**

Transportation; Interisland Airlines; Loan Guarantee Trust Fund

**Description:**

Allows DBEDT to guarantee up to 90% of the principal balance of a loan made by a private lending institution to a Hawaii air carrier; provided that the aggregate amount of the State's liability shall not exceed \$ . Repealed on 06/30/2020.  
(HB509 SD2)

