

JAN 18 2019

A BILL FOR AN ACT

RELATING TO THE HAWAII TECHNOLOGY DEVELOPMENT CORPORATION.

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

1 SECTION 1. Chapter 206M, Hawaii Revised Statutes, is
2 amended by adding three new parts to be appropriately designated
3 and to read as follows:

4 **"PART A. ECONOMIC DEVELOPMENT PROGRAM**

5 **§206M-A Definitions.** As used in this part:

6 "Economic development project" means an endeavor related to
7 industrial, commercial, or advanced technology-based
8 agricultural enterprise. Economic development project shall not
9 include that portion of an endeavor devoted to the construction
10 of housing.

11 "Enterprise" means a person with a place of business in
12 Hawaii which is, or proposes to be, engaged in business in
13 Hawaii; provided that the endeavor shall not be devoted to the
14 sale of goods at retail, construction of housing, or tourism-
15 related services.



1 "Minority-owned businesses" means businesses at least fifty
2 per cent owned, controlled, and managed by socially or
3 economically disadvantaged persons.

4 "Person" means a sole proprietorship, partnership, joint
5 venture, corporation, or other association of persons organized
6 for commercial or industrial purposes.

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

12 "Venture capital investment" means any of the following
13 investments in a business:

- 14 (1) Common or preferred stock and equity securities
15 without a repurchase requirement for at least five
16 years;
- 17 (2) A right to purchase stock or equity securities;
- 18 (3) Any debenture or loan, whether or not convertible or
19 having stock purchase rights, which are subordinated,
20 together with security interests against the assets of
21 the borrower, by their terms to all borrowings of the



1 borrower from other institutional lenders, and that is
2 for a term of not less than three years, and that has
3 no part amortized during the first three years; and

4 (4) General or limited partnership interests.

5 **§206M-B Economic development program; guidelines.** (a)

6 The development corporation shall establish an economic
7 development program, consisting of economic development
8 projects, to encourage economic development and diversification
9 in Hawaii through innovative actions in cooperation with private
10 enterprises. The development corporation may use public funds
11 to provide incentives to private investment activity, by co-
12 investing public funds in private financial organizations to
13 increase the impact of public investment while utilizing the
14 investment acumen of the private sector, and by using public
15 funds to reduce the risks of private investments. The
16 development corporation shall have the flexibility to provide
17 various types of financial assistance. When providing financial
18 assistance, the development corporation shall make provision for
19 the recovery of its expenditures, as far as possible.

20 (b) The development corporation shall evaluate all
21 programs after three years to determine their effectiveness.



1 (c) The development corporation shall establish rules to
2 assure equal opportunity to minority-owned businesses, and shall
3 encourage the development of minority-owned businesses.

4 (d) The development corporation shall support and
5 encourage participation by Hawaii companies in federal grant
6 programs, such as the Small Business Innovation Research
7 Program.

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

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



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

12 The development corporation shall not acquire securities to an
13 extent that would provide the development corporation effective
14 voting control of any enterprise after giving effect to the
15 conversion of all outstanding convertible securities of the
16 enterprise.

17 (h) Investments by the development corporation to persons
18 shall be made on the basis of solicitation and a competitive
19 technical review process, subject to the availability of funds
20 allocated to the development corporation for making investments
21 in the economic development revolving fund under section 206M-C.



1 Investments by the development corporation shall not be subject
2 to chapter 42F. Any organization approved by the development
3 corporation for an investment shall:

4 (1) Have bylaws or policies that describe the manner in
5 which business is conducted and policies relating to
6 nepotism and management of potential conflict of
7 interest situations;

8 (2) Be licensed and accredited, as applicable, in
9 accordance with the requirements of federal, state,
10 and county governments;

11 (3) Comply with applicable federal and state laws
12 prohibiting discrimination against any person on the
13 basis of race, color, national origin, religion,
14 creed, sex, age, or physical handicap; and

15 (4) Comply with other requirements as the board may
16 prescribe.

17 **§206M-C Economic development revolving fund.** There is
18 established the economic development revolving fund. The
19 following moneys shall be deposited into the economic
20 development revolving fund and shall not be considered part of
21 the general fund: all moneys appropriated by the legislature,



1 received as repayments of loans, earned on investments, received
2 pursuant to a venture agreement, received as royalties, received
3 as premiums or fees charged by the development corporation, or
4 otherwise received by the development corporation related to
5 economic development projects.

6 **§206M-D Business and industry evaluation and priorities**
7 **for job opportunity and economic development.** The development
8 corporation shall develop procedures to set priorities as to
9 which types of businesses and industries are most likely to
10 provide significant opportunities for economic development and
11 diversification in the State, consistent with the purposes of
12 this part. This evaluation shall take into account the
13 guidelines provided by the state plan for economic development.
14 Based on these findings, the development corporation shall
15 establish targets by which the operations and programs of the
16 development corporation shall be guided.

17 **§206M-E Requests for assistance from development**
18 **corporation; procedure.** (a) The board shall approve or
19 disapprove requests for assistance within ninety days of
20 receiving a written application. Upon written request by an
21 applicant, the board may reconsider its denial of an application



1 for assistance or may waive the ninety-day deadline for
2 approving or disapproving an application.

3 (b) Any person who submits any statement, report,
4 application, or other document to the development corporation
5 which is known to the person to be false in any material respect
6 shall be guilty of a class C felony.

7 (c) The development corporation may condition any
8 assistance of any type by placing restrictions on the recipient
9 in regard to the recipient's assets or indebtedness or in any
10 other manner deemed appropriate by the development corporation.
11 A recipient who accepts assistance from the development
12 corporation shall be deemed to agree to be bound by any
13 conditions or restrictions imposed by the development
14 corporation.

15 **§206M-F Private sector financial support.** Significant
16 private sector financial support shall be associated with any
17 economic development project for which the development
18 corporation provides assistance.

19 **§206M-G Limitations on debt owed to development**
20 **corporation.** Not more than \$5,000,000 in financial assistance,
21 excluding rights and royalties under a venture capital



1 agreement, shall be provided to any one enterprise at any time.
2 The direct investments of the development corporation in an
3 economic development project shall not exceed five percent of
4 the assets of the development corporation, excluding rights and
5 royalties under a venture capital agreement; provided that by a
6 two-thirds vote of the board, this amount may be increased to a
7 limit of twenty-five per cent of the total assets of the
8 development corporation.

9 **§206M-H Seed capital assistance program; establishment.**

10 The development corporation shall establish a program for seed
11 capital assistance.

12 **§206M-I Seed capital investments.** Subject to this part,
13 the development corporation may invest in:

- 14 (1) A certified development company under sections 501 to
15 503 of the Small Business Investment Act of 1958,
16 title 15 United States Code sections 695 to 697, and
17 the regulations adopted under those sections;
- 18 (2) A small business investment company under title 15
19 United States Code sections 631 to 634, 636 to 649,
20 and the regulations adopted under those sections;



- 1 (3) A minority enterprise small business investment
- 2 corporation or equivalent venture capital corporation;
- 3 (4) A similar entity that may leverage its capital under a
- 4 federal program; or
- 5 (5) A seed capital fund or partnership.

6 **§206M-J Purposes and terms of seed capital investments.**

7 (a) Investments may be used for any purpose consistent with the

8 purposes and objectives of this part, including but not limited

9 to:

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

16 (b) Investments may be made on such terms and conditions

17 as the development corporation shall determine to be reasonable,

18 appropriate, and consistent with the purposes and objectives of

19 this part.



1 **§206M-K Venture capital assistance program; establishment.**

2 The development corporation shall establish a program for
3 venture capital.

4 **§206M-L Venture capital investments.** Subject to this
5 part, the development corporation may invest in:

6 (1) A certified development company under sections 501 to
7 503 of the Small Business Investment Act of 1958,
8 title 15 United States Code sections 695 to 697, and
9 the regulations adopted under those sections;

10 (2) A small business investment company under title 15
11 United States Code sections 631 to 634, 636 to 649,
12 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 venture capital fund or partnership.

18 **§206M-M Purposes and terms of venture capital investments.**

19 (a) Investments may be used for any purpose consistent with the
20 purposes and objectives of this part.



1 (b) Investments may be made on such terms and conditions
2 as the development corporation shall determine to be reasonable,
3 appropriate, and consistent with the purposes and objectives of
4 this part.

5 **§206M-N Capital access program; establishment.** The
6 development corporation shall establish a program for capital
7 access.

8 **§206M-O Financial assistance.** The development
9 corporation, through the program for capital access, may:

10 (1) Procure insurance, a guarantee, or a letter of credit
11 from any source for all or part of a loan, debenture,
12 or lease of others, public or private, or a revenue
13 bond issue of the State or other entity or authority
14 authorized to issue revenue bonds; and

15 (2) Procure insurance, a guarantee, or a letter of credit
16 for either a single loan, debenture, or lease or for
17 any combination of loans, debentures, or leases, or a
18 single revenue bond issue or for all or a part of any
19 combination of revenue bond issues.

20 **§206M-P Purposes and priorities required in the procuring**
21 **of insurance, loan guarantees, or letters of credit. (a)**



1 Insurance, guarantees, or letters of credit procured pursuant to
2 section 206M-0 shall be procured only for economic development
3 projects within the State that are consistent with the purposes
4 and objectives of this part.

5 (b) The development corporation shall give paramount
6 priority in procuring insurance, guarantees, and letters of
7 credit to economic development projects that have the greatest
8 potential for creating new jobs or retaining current jobs within
9 the State.

10 **§206M-Q Conditions on procuring of insurance, loan**
11 **guarantees, or letters of credit.** (a) Insurance, guarantees,
12 or letters of credit shall not be procured pursuant to section
13 206M-0 unless the development corporation is assured that the
14 loans, debentures, or leases insured, or guaranteed, or for
15 which letters of credit are issued, shall be used to assist
16 economic development projects that also have significant private
17 sector financial support.

18 (b) Insurance, guarantees, or letters of credit may be
19 procured on such terms and conditions as the development
20 corporation, in its sole discretion, shall determine to be



1 reasonable, appropriate, and consistent with the purposes and
2 objectives of this part.

3 (c) The development corporation shall charge the lender or
4 the borrower, or both, a fee or premium for procuring loan,
5 debenture, or lease insurance, a guarantee, or a letter of
6 credit. Rules for premiums or fees shall be established by the
7 development corporation.

8 **§206M-R Program for capital access participation**

9 **agreements.** The development corporation shall enter into
10 agreements with lenders for participation in the program for
11 capital access that shall include but not be limited to:

12 (1) Authorization for the lender to determine, collect,
13 and transmit to the development corporation a fee or
14 premium charge within a specified range established
15 consistent with the purposes and objectives of the
16 development corporation;

17 (2) Specification of whether the premium charge shall be
18 paid by the lender, the borrower, the development
19 corporation, or by a combination thereof in specified
20 proportions;



1 (3) The procedure by which a lender may make a claim upon
2 the development corporation upon default by the
3 borrower, and the conditions under which a claim may
4 be made; and

5 (4) The maximum amount of claims a lender may make upon
6 the development corporation, which amount may be equal
7 to or less than the proportion of the total premiums
8 contributed by the development corporation.

9 **§206M-S Establishment of special funds to secure loan**
10 **insurance obligations; source of funds.** The development
11 corporation may establish a special fund or funds into which
12 fees or premiums collected by the development corporation are
13 deposited.

14 **§206M-T Annual report.** The development corporation shall
15 submit a complete and detailed report of the economic
16 development program to the legislature no later than twenty days
17 prior to the convening of each regular session.

18 **§206M-U Annual audit.** The books and records of the
19 development corporation relating to economic development
20 projects shall be subject to an annual audit by an independent
21 auditor.



1 **§206M-V Construction of part.** This part shall be
2 liberally construed to effect its purpose."

3 **PART B. HAWAII TECHNOLOGY INVESTMENT PROGRAM**

4 **§206M-AA Definitions.** As used in this part:

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

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

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



1 "Computer software" means computer data, a computer
2 program, or a set of computer programs, procedures, or
3 associated documentation concerned with the operation and
4 function of a computer system, and includes both systems and
5 application programs and subdivisions, such as assemblers,
6 compilers, routines, generators, and utility programs.

7 "Financial organization" means an organization authorized
8 to do business in Hawaii that is:

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

17 "Program" means the Hawaii technology investment program.

18 "Program manager" means a financial organization selected
19 by the development corporation to manage the program.

20 "Qualified high technology business":



- 1 (1) Means a business, employing or owning capital or
- 2 property, or maintaining an office, in this State
- 3 that:
- 4 (A) Conducts more than fifty per cent of its
- 5 activities in performing qualified research in
- 6 the State; or
- 7 (B) Receives more than fifty per cent of its gross
- 8 income derived from qualified research; provided
- 9 that the income is received from:
- 10 (i) Products sold from, manufactured in, or
- 11 produced in the State; or
- 12 (ii) Services performed in this State; and
- 13 (2) Does not include:
- 14 (A) Any trade or business involving the performance
- 15 of services in the field of law, architecture,
- 16 accounting, actuarial science, consulting,
- 17 athletics, financial services, or brokerage
- 18 services;
- 19 (B) Any banking, insurance, financing, leasing,
- 20 rental, investing, or similar business; any
- 21 farming business, including the business of



1 raising or harvesting trees; any business
2 involving the production or extraction of
3 products of a charter with respect to which a
4 deduction is allowable under section 611 (with
5 respect to allowance of deduction for depletion),
6 613 (with respect to basis for percentage
7 depletion), or 613A (with respect to limitation
8 on percentage depleting in cases of oil and gas
9 wells) of the Internal Revenue Code of 1986, as
10 amended;

11 (C) Any business operating a hotel, motel,
12 restaurant, or similar business; and

13 (D) Any trade or business involving a hospital, a
14 private office of a licensed health care
15 professional, a group practice of licensed health
16 care professionals, or a nursing home.

17 "Qualified research" means:

18 (1) The same as in section 41(d) of the Internal Revenue
19 Code;

20 (2) The development and design of computer software using
21 fourth generation or higher software development tools



1 or native programming languages to design and
2 construct unique and specific code to create
3 applications and design databases for sale or license;
4 or

5 (3) Biotechnology;
6 provided that more than fifty per cent of the business'
7 activities are qualified research.

8 "Venture capital investment" means any of the following
9 investments in a qualified high technology 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:
- 16 (A) Is subordinated, together with security interests
17 against the assets of the borrower, by their
18 terms to all borrowings of the borrower from
19 other institutional lenders;
- 20 (B) Is for a term of not less than three years; and



1 (C) Has no part amortized during the first three
2 years;

3 (4) General or limited partnership interests; and

4 (5) Membership interests in limited liability companies.

5 **§206M-BB Formation of Hawaii technology investment**

6 **program.** (a) The development corporation shall establish the
7 Hawaii technology investment program for the purpose of allowing
8 individual investors to contribute to the program to invest
9 venture capital in businesses in Hawaii.

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

17 The development corporation may establish a program in
18 which the dividends distributed by the regulated investment
19 company are exempt from income taxation under chapter 235. If
20 the development corporation establishes a program that is
21 proposed to be exempt from income taxation under chapter 235, it



1 shall furnish sufficient information and notify the department
2 of taxation and investors of the tax exempt status of that
3 program.

4 (c) The development corporation may implement the program
5 through the use of financial organizations as program managers.
6 Under the program, individuals may establish accounts directly
7 with a program manager.

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

- 16 (1) The financial stability and integrity of the financial
17 organization;
- 18 (2) The ability of the financial organization to establish
19 or act as a regulated investment company for the
20 purposes of this part;



- 1 (3) The ability of the financial organization to satisfy
2 recordkeeping and reporting requirements for the
3 purposes of a program that allows a program that is
4 exempt from taxation under chapter 235;
- 5 (4) The financial organization's plan for promoting the
6 program and the resources it is willing to allocate to
7 promote the program;
- 8 (5) The fees, if any, proposed to be charged to persons
9 for opening accounts;
- 10 (6) The minimum initial deposit and minimum contributions,
11 subject to this section that the financial
12 organization will require; and
- 13 (7) Other benefits to the State or its residents included
14 in the proposal, including fees payable to the State
15 to cover expenses to operate the program.
- 16 (e) The development corporation may enter into a
17 management contract of up to ten years with a financial
18 organization. The financial organization shall provide
19 investment instruments meeting the requirements of this section.
20 The management contract shall include, at a minimum, terms
21 requiring the financial organization to:



- 1 (1) Take any action required to keep the program in
2 compliance with requirements of this section and to
3 manage the program to meet the requirements of
4 sections 851 to 855 of the federal Internal Revenue
5 Code of 1986, as amended;
- 6 (2) Keep adequate records of each account, keep each
7 account segregated from each other's account, and
8 provide the development corporation with the
9 information necessary to prepare any necessary
10 statements;
- 11 (3) Provide the development corporation with the
12 information necessary to determine compliance with
13 this section;
- 14 (4) Provide the development corporation access to the
15 books and records of the financial organization to the
16 extent necessary to determine compliance with the
17 contract;
- 18 (5) Hold all accounts for the benefit of the account
19 owner;
- 20 (6) Be audited at least annually by a firm of independent
21 certified public accountants selected by the financial



1 organization, and provide the results of the audit to
2 the development corporation; and

3 (7) Provide the development corporation with copies of all
4 regulatory filings and reports related to the program
5 made by the financial organization during the term of
6 the management contract or while it is holding any
7 accounts, other than confidential filings or reports
8 that will not become part of the program. The
9 financial organization shall make available for review
10 by the development corporation, the results of any
11 periodic examination of the financial organization by
12 any state or federal banking, insurance, or securities
13 commission, except to the extent that the report or
14 reports may not be disclosed under applicable law or
15 the rules of the examining agency.

16 (f) The development corporation may require an audit to be
17 conducted on the operations and financial position of the
18 program manager at any time if the development corporation has
19 any reason to be concerned about the financial position,
20 recordkeeping practices, or status of accounts of the program
21 manager.



1 (g) During the term of any contract with a program
2 manager, the development corporation shall conduct an
3 examination of the program manager and its handling of accounts.
4 The examination shall be conducted at least biennially if the
5 program manager is not otherwise subject to periodic examination
6 by the commissioner of financial institutions, the Federal
7 Deposit Insurance Corporation, or other similar entity.

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

- 10 (1) Accounts previously established and held in investment
11 instruments at the financial organization may be
12 terminated;
- 13 (2) Additional contributions may be made to the accounts;
- 14 (3) No new accounts may be placed with the financial
15 organization; and
- 16 (4) Existing accounts held by the financial organization
17 shall remain subject to all oversight and reporting
18 requirements established by the development
19 corporation.

20 If the development corporation terminates a financial
21 organization as a program manager, the development corporation



1 shall take custody of accounts held by the financial
2 organization and shall seek to promptly transfer the accounts to
3 another financial organization that is selected as a program
4 manager and into investment instruments as similar to the
5 original instruments as possible.

6 (i) The development corporation may enter into contracts
7 for the services of consultants for rendering professional and
8 technical assistance and advice and any other contracts that are
9 necessary and proper for the implementation of the program.

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

13 (k) The program manager shall invest all contributions
14 received from investors in securities not limited to legal
15 investments under state laws relating to the investment of trust
16 fund assets by trust companies, including those authorized by
17 article 8 of chapter 412. Contributions shall be used for
18 venture capital investment. Investment may be made in any
19 manner the program deems correct. If no venture capital is
20 available at the time a contribution is made to the program, the
21 program manager may invest the contribution in any manner



1 allowed a regulated investment company until a venture capital
2 investment opportunity occurs. While the program manager should
3 make a best effort to make venture capital investments as
4 defined in section 206M-AA, if no such venture capital
5 investment is available in Hawaii, then the program manager may
6 make venture capital investments outside Hawaii.

7 (1) The development corporation may adopt any necessary
8 rules under chapter 91.

9 **§206M-CC Limitation of liability.** In no case shall the
10 development corporation, officers or employees of the
11 development corporation, or the State be liable for the monetary
12 losses of individuals contributing to the program. In all
13 cases, the program manager shall inform individual contributors
14 of the risk involved in contributing to the program.

15 **PART C. BROADBAND DIVISION**

16 **§206M-DD Broadband division; established.** There is
17 established the broadband division of the Hawaii technology
18 development corporation. The purpose of the division is to
19 provide all Hawaii residents with access to ultra-high speed
20 internet service at affordable prices."



1 SECTION 2. Chapter 206M, Hawaii Revised Statutes, is
2 amended by adding two new sections to part I to be appropriately
3 designated and to read as follows:

4 "§206M-EE Hydrogen investment capital special fund. (a)

5 There shall be established the hydrogen investment capital
6 special fund, into which shall be deposited:

7 (1) Appropriations made by the legislature to the fund;

8 (2) All contributions from public or private partners;

9 (3) All interest earned on or accrued to moneys deposited
10 in the special fund; and

11 (4) Any other moneys made available to the special fund
12 from other sources.

13 (b) Moneys in the fund shall be expended by the
14 development corporation:

15 (1) To provide seed capital for and venture capital
16 investments in private sector and federal projects for
17 research, development, testing, and implementation of
18 the Hawaii renewable hydrogen program, as set forth in
19 section 196-10; and

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



1 §206M-FF HI growth initiative; report to legislature. The
2 development corporation shall submit a report to the legislature
3 no later than twenty days prior to each regular session on the
4 specific annual outcome achieved through the activities and
5 expenditures of the HI growth initiative."

6 SECTION 3. Section 206M-2, Hawaii Revised Statutes, is
7 amended by amending subsection (a) to read as follows:

8 "(a) There is established the Hawaii technology
9 development corporation, which shall be a public body corporate
10 and politic and an instrumentality and agency of the State. The
11 development corporation shall be placed within the department of
12 business, economic development, and tourism for administrative
13 purposes, pursuant to section 26-35. The purpose of the
14 development corporation shall be to facilitate the growth and
15 development of the commercial technology industry in Hawaii.
16 Its duties shall include, but not be limited to:

17 (1) Developing and encouraging industrial parks as
18 technology innovation centers and developing or
19 assisting with the development of projects within or
20 outside of industrial parks, including participating
21 with the private sector in such development;



- 1 (2) Providing financial and other support and services to
- 2 Hawaii-based technology companies;
- 3 (3) Collecting and analyzing information on the state of
- 4 commercial technology activity in Hawaii;
- 5 (4) Promoting and marketing Hawaii as a site for
- 6 commercial technology activity; [~~and~~]
- 7 (5) Providing advice on policy and planning for
- 8 technology-based economic development [-]; and
- 9 (6) Establishing programs to stimulate private capital
- 10 investment in Hawaii toward investments that promote
- 11 the welfare of citizens of this State, economic
- 12 growth, employment, and economic diversification."

13 SECTION 4. Section 206M-3, Hawaii Revised Statutes, is

14 amended by amending subsection (a) to read as follows:

15 "(a) The development corporation shall have all the powers

16 necessary to carry out its purposes, including the powers 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,
21 projects, multi-project programs, and the operations,



- 1 properties, and facilities of the development
2 corporation;
- 3 (6) Through its chief executive officer, appoint officers,
4 agents, and employees, prescribe their duties and
5 qualifications, and fix their salaries, without regard
6 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;~~] as
21 may be necessary;



- 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~~]:

5 (A) Programs that support start-up and existing
6 technology companies in Hawaii and attract new
7 companies to relocate to or establish operations
8 in Hawaii by assessing the needs of these
9 companies and providing the physical and
10 technical infrastructure to support their
11 operations; and

12 (B) Specialized programs designed to encourage the
13 development of new products, businesses, and
14 markets;

15 (23) Coordinate its efforts with other public and private
16 agencies involved in stimulating technology-based
17 economic development in Hawaii, including but not
18 limited to:

19 (A) The department of business, economic development,
20 and tourism;



- 1 (B) The Pacific international center for high
- 2 technology research; and
- 3 (C) The office of technology transfer and economic
- 4 development of the University of Hawaii;
- 5 (24) Promote and market Hawaii as a site for commercial
- 6 technology activity, including the expenditure of
- 7 funds for protocol purposes at the discretion of the
- 8 board;
- 9 (25) Provide advice on policy and planning for technology-
- 10 based economic development;
- 11 (26) Finance, conduct, or cooperate in financing or
- 12 conducting technological, business, financial, or
- 13 other investigations that are related to or likely to
- 14 lead to business, technology, and economic development
- 15 by making and entering into contracts and other
- 16 appropriate arrangements, including the provision of
- 17 loans, start-up and expansion capital, loan guaranty,
- 18 loans convertible to equity, equity charged and
- 19 received by the corporation, and other forms of
- 20 assistance;



- 1 (27) Solicit, study, and assist in the preparation of
2 business plans and proposals of new or established
3 businesses;
- 4 (28) Provide [~~advice,~~] advisory services, technical and
5 marketing assistance, support, and promotion to
6 enterprises in which investments have been made [7] or
7 as may be necessary to carry out the purposes of this
8 chapter;
- 9 (29) Acquire, hold, and sell qualified securities;
- 10 (30) Consent, subject to the provisions of any contract
11 with noteholders or bondholders, whenever the
12 corporation deems it necessary or desirable in the
13 fulfillment of the purposes of this chapter, to the
14 modification, with respect to rate of interest, time
15 of payment of any installment of principal or
16 interest, or any other terms, of any contract or
17 agreement of any kind to which the corporation is a
18 party;
- 19 (31) Invest any funds held in reserves or sinking funds, or
20 any funds not required for immediate disbursement, in



- 1 such investments as may be lawful for fiduciaries in
2 the State; [~~and~~]
- 3 (32) Coordinate the development corporation's programs with
4 any education and training program;
- 5 (33) Prepare, publish, and distribute such technical
6 studies, reports, bulletins, and other materials as it
7 deems appropriate, subject only to the maintenance and
8 respect for confidentiality of client proprietary
9 information;
- 10 (34) Organize, conduct, sponsor, or cooperate in and assist
11 in the conduct of conferences, demonstrations, and
12 studies relating to the stimulation and formation of
13 businesses;
- 14 (35) Enter into agreements or other transactions with any
15 federal, state, or county agency;
- 16 (36) Appear in its own behalf before state, county, or
17 federal agencies;
- 18 (37) Appoint advisory committees as deemed necessary;
- 19 (38) Exercise any other powers of a corporation organized
20 under the laws of the State; and



1 [~~32~~] (39) Do any and all things necessary or convenient to
2 carry out its purposes and exercise the powers given
3 and granted in this chapter."

4 SECTION 5. Chapter 211F, Hawaii Revised Statutes, is
5 repealed.

6 SECTION 6. All rights, powers, functions, and duties of
7 the Hawaii strategic development corporation and the broadband
8 division of the department of business, economic development,
9 and tourism are transferred to the Hawaii technology development
10 corporation.

11 All employees who occupy civil service positions and whose
12 functions are transferred to the Hawaii technology development
13 corporation by this Act shall retain their civil service status,
14 whether permanent or temporary. Employees shall be transferred
15 without loss of salary, seniority (except as prescribed by
16 applicable collective bargaining agreements), retention points,
17 prior service credit, any vacation and sick leave credits
18 previously earned, and other rights, benefits, and privileges,
19 in accordance with state personnel laws and this Act; provided
20 that the employees possess the minimum qualifications and public
21 employment requirements for the class or position to which



1 transferred or appointed, as applicable; provided further that
2 subsequent changes in status may be made pursuant to applicable
3 civil service and compensation laws.

4 Any employee who, prior to this Act, is exempt from civil
5 service and is transferred as a consequence of this Act may
6 retain the employee's exempt status, but shall not be appointed
7 to a civil service position as a consequence of this Act. An
8 exempt employee who is transferred by this Act shall not suffer
9 any loss of prior service credit, vacation or sick leave credits
10 previously earned, or other employee benefits or privileges as a
11 consequence of this Act; provided that the employees possess
12 legal and public employment requirements for the position to
13 which transferred or appointed, as applicable; provided further
14 that subsequent changes in status may be made pursuant to
15 applicable employment and compensation laws. The chief
16 executive officer of the Hawaii technology development
17 corporation may prescribe the duties and qualifications of these
18 employees and fix their salaries without regard to chapter 76,
19 Hawaii Revised Statutes.

20 SECTION 7. All rules, policies, procedures, guidelines,
21 and other material adopted or developed by the Hawaii strategic



1 development corporation and the broadband division of the
2 department of business, economic development, and tourism to
3 implement provisions of the Hawaii Revised Statutes that are
4 reenacted or made applicable to the Hawaii technology
5 development corporation by this Act shall remain in full force
6 and effect until amended or repealed by the Hawaii technology
7 development corporation pursuant to chapter 91, Hawaii Revised
8 Statutes. In the interim, every reference to the Hawaii
9 strategic development corporation or the board of directors of
10 the Hawaii strategic development corporation or the broadband
11 division or the director of business, economic development, and
12 tourism in those rules, policies, procedures, guidelines, and
13 other material is amended to refer to the Hawaii technology
14 development corporation or the board of directors of the Hawaii
15 technology development corporation, as appropriate.

16 SECTION 8. All deeds, leases, contracts, loans,
17 agreements, permits, or other documents executed or entered into
18 by or on behalf of the Hawaii strategic development corporation
19 or the broadband division of the department of business,
20 economic development, and tourism, pursuant to the provisions of
21 the Hawaii Revised Statutes that are reenacted or made



1 applicable to the Hawaii technology development corporation by
2 this Act shall remain in full force and effect. Effective
3 July 1, 2019, every reference to the Hawaii strategic
4 development corporation or the board of directors of the Hawaii
5 strategic development corporation or the broadband division or
6 the director of business, economic development, and tourism in
7 those deeds, leases, contracts, loans, agreements, permits, or
8 other documents shall be construed as a reference to the Hawaii
9 technology development corporation or the board of directors of
10 the Hawaii technology development corporation, as appropriate.

11 SECTION 9. All appropriations, records, equipment,
12 machines, files, supplies, contracts, books, papers, documents,
13 maps, and other personal property heretofore made, used,
14 acquired, or held by the Hawaii strategic development
15 corporation and the broadband division of the department of
16 business, economic development, and tourism relating to the
17 functions transferred to the Hawaii technology development
18 corporation shall be transferred with the functions to which
19 they relate.

20 SECTION 10. In codifying the new parts and sections added
21 by section 1 of this Act, the revisor of statutes shall



S.B. NO. 990

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

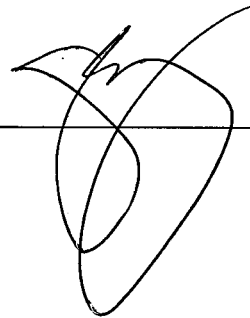
3 SECTION 11. This Act does not affect rights and duties
4 that matured, penalties that were incurred, and proceedings that
5 were begun before its effective date.

6 SECTION 12. Statutory material to be repealed is bracketed
7 and stricken. New statutory material is underscored.

8 SECTION 13. This Act shall take effect on July 1, 2019.

9

INTRODUCED BY: _____

A handwritten signature in black ink, consisting of several overlapping loops and a long horizontal stroke extending to the right, positioned over the line following "INTRODUCED BY:".

S.B. NO. 990

Report Title:

Hawaii Strategic Development Corporation; Hawaii Technology Development Corporation; Broadband Division; Transfer

Description:

Transfers all powers, duties, and obligations held by the Hawaii strategic development corporation and the broadband division of the department of business, economic development, and tourism to the Hawaii technology development corporation. Repeals the Hawaii strategic development corporation.

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

