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CRAIG K. HIRAI
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HAWAII EMPLOYER-UNION HEALTH BENEFITS TRUST FUND
OFFICE OF THE PUBLIC DEFENDER

STATE OF HAWAII
DEPARTMENT OF BUDGET AND FINANCE
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ADMINISTRATIVE AND RESEARCH OFFICE
BUDGET, PROGRAM PLANNING AND
MANAGEMENT DIVISION
FINANCIAL ADMINISTRATION DIVISION
OFFICE OF FEDERAL AWARDS MANAGEMENT (OFAM)

WRITTEN ONLY
TESTIMONY BY CRAIG K. HIRAI
DIRECTOR, DEPARTMENT OF BUDGET AND FINANCE
TO THE SENATE COMMITTEES ON GOVERNMENT OPERATIONS
AND WAYS AND MEANS
ON
SENATE BILL NO. 1420

March 2, 2021
10:00 a.m.
Room 211 & Videoconference

RELATING TO TECHNOLOGY

The Department of Budget and Finance (B&F) offers comments on Senate Bill (S.B.) No. 1420.

S.B. No. 1420 establishes the Hawai'i Diversification and Resilience in a Vibrant Economy (HI DRiVE) Program and special fund (SF); requires the Hawai'i Technology and Development Corporation (HTDC) to provide grants to support Phase III small business innovation research (SBIR) efforts to commercialize technology, develop manufacturing infrastructure, acquire equipment or materials, and support training or quality systems; and requires the Governor to apply for \$100,000,000 in economic diversification assistance from the federal government for the creation of the HI DRiVE Program. The bill does not appropriate any funds out of the SF.

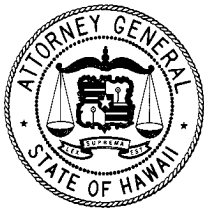
S.B. No. 1420 would require HTDC to provide grants from the HI DRiVE SF to any Hawai'i-based business that receives a federal SBIR Phase II award or contract from any participating federal agency. The measure provides further program and grant funding qualifications and provisions. The HI DRiVE SF would be funded from deposits

to the fund received from the federal government for economic diversification assistance.

While B&F defers to HTDC and the Office of the Governor on the merits and implementation of S.B. No. 1420, B&F notes its concerns with the creation of a central repository for federal funds. Most federal funds, especially federally funded grants, are awarded with strict conditions limiting the use and scope of those funds for the awarded purpose, including the expending State agencies of awarded funds. Thus, B&F notes that not all federal monies received for economic diversification assistance may be eligible for the intended use and purpose of the funds deposited into the HI DRiVE SF.

Finally, as a matter of general policy, B&F does not support the creation of any special fund which does not meet the requirements of Section 37-52.3, HRS. Special funds should: 1) serve a need as demonstrated by the purpose, scope of work and an explanation why the program cannot be implemented successfully under the general fund appropriation process; 2) reflect a clear nexus between the benefits sought and charges made upon the users or beneficiaries or a clear link between the program and the sources of revenue; 3) provide an appropriate means of financing for the program or activity; and 4) demonstrate the capacity to be financially self-sustaining. Regarding S.B. No. 1420, it is difficult to determine whether the proposed special fund would be self-sustaining as it is limited to funds received by the federal government.

Thank you for your consideration of our comments.



**WRITTEN TESTIMONY OF
THE DEPARTMENT OF THE ATTORNEY GENERAL
THIRTY-FIRST LEGISLATURE, 2021**

ON THE FOLLOWING MEASURE:

S.B. NO. 1420, RELATING TO TECHNOLOGY.

BEFORE THE:

SENATE COMMITTEES ON GOVERNMENT OPERATIONS AND ON
WAYS AND MEANS

DATE: Tuesday, March 2, 2021 **TIME:** 10:00 a.m.

LOCATION: State Capitol, Via Videoconference Room 211

TESTIFIER(S): **WRITTEN TESTIMONY ONLY.**
(For more information, contact Andrew Goff,
Deputy Attorney General, at 586-1160)

Chairs Moriwaki and Dela Cruz and Members of the Committees:

The Department of the Attorney General makes the following comments.

The purpose of this bill is to establish the Hawaii diversification and resilience in a vibrant economy (HI DRiVE) program and special fund within the Hawaii Technology Development Corporation (HTDC), through which grants may be provided to small businesses.

The bill contains a provision on page 4, line 20, through page 5, line 2, that states "[a]ll moneys necessary to carry out the purposes of this section shall be appropriated by the legislature through appropriations out of the Hawaii diversification and resilience in a vibrant economy program special fund."

As this provision requires a future legislature to appropriate funds for the program and limits that appropriation to a specific funding source, we have concerns about its constitutionality.

The proposition that one legislature cannot bind a future legislature is derived from article III, section 1, of the Hawaii State Constitution, which states:

The legislative power of the State shall be vested in a legislature, which shall consist of two houses, a senate and a house of representatives. Such power shall extend to all rightful subjects of legislation not inconsistent with this constitution or the Constitution of the United States.

The plain meaning of this section is that every legislature has complete authority to enact legislation unless restricted by the Hawaii State Constitution or the Constitution of the United States. A statute attempting to restrict the constitutional authority of a future legislature would violate article III, section 1, of the Hawaii State Constitution. *See, State ex. rel. Stenberg v. Moore*, 544 N.W.2d 344, 349 (Neb. 1996) (analyzing caselaw from several states upholding the general rule that a legislature cannot bind or restrict a succeeding legislature, and holding that a statute attempting to do so violates the state constitution).

The provision in this bill requiring any money necessary for the HI DRiVE program be appropriated from a specific source could violate article III, section 1, of the Hawaii State Constitution and therefore we recommend that the provision on page 4, line 20, through page 5, line 2, be deleted.

Additionally, the bill contains a provision on page 4, lines 13-16, that states "[t]he development corporation shall provide a grant to any Hawaii-based business that receives a federal small business innovation research phase II award or contract from any participating federal agency, as described in section 206M-15." This wording would require the HTDC to provide grants to every qualifying small business, regardless of whether HTDC has funding to do so. If it is the Legislature's intent is to allow the HTDC to make such grants when funding is available, we suggest changing the word "shall" to "may" on page 4, line 13.

Finally, the special fund established on page 5, lines 14-21, of the bill is funded by "all moneys received in economic diversification assistance from the federal government." The term "economic diversification assistance" may be too broad and apply to federal money not intended for the HI DRiVE Program. If it is the intent of the legislature to deposit into the HI DRiVE special fund only the federal funds applied for pursuant to section 3, we recommend amending page 5, lines 14-21, to read:

§206M- Hawaii diversification and resilience in a vibrant economy special fund. There is established in the state treasury a fund to be known as the Hawaii diversification and resilience in a vibrant economy special fund to be administered by the development corporation. Moneys deposited in this special fund shall be used to

fulfill the purposes of section 206M- , and shall include any moneys received from the federal government for the purposes of this section.

Thank you for the opportunity to testify.



Written Statement of
DR. PATRICK K. SULLIVAN
PRESIDENT/CEO OCEANIT

Before the

SENATE COMMITTEE ON GOVERNMENT OPERATIONS
And
SENATE COMMITTEE ON WAYS AND MEANS

March 2, 2021
10:00 a.m.

State Capitol, Conference Room 211 and Videoconference

In SUPPORT of
SB1420 RELATING TO TECHNOLOGY

To: Chair Senator Sharon Y. Moriwaki, Vice Chair Senator Donovan M. Dela Cruz
and Members of the Committee

From: Dr. Patrick K. Sullivan, President/CEO

Re: Testimony in Support of SB1420

Honorable Chair, Vice-Chair and Committee Members:

Thank you for the opportunity to provide testimony in Support of **SB1420**.

The purpose of the Hawaii Diversification and Resilience in a Vibrant Economy Special Fund (HI DRiVE) bill is to help the State of Hawaii develop a more diverse and stable economy by growing our Technology sector.

Through various federal funding sources, local tech companies have clearly demonstrated the ability to attract federal research dollars to Hawaii. With added support from HI DRiVE, Hawaii could empower Hawaii-based technology companies and enable them to create manufacturing infrastructure, build prototypes and develop products.

We strongly support SB1420.



Written Statement of
Len Higashi
 Acting Executive Director
 Hawaii Technology Development Corporation
 before the
Senate Committee On Government Operations
And
Senate Committee on Ways and Means
 Tuesday, March 2, 2021
 10:00 a.m.
 Videoconference

In consideration of
SB1420
RELATING TO TECHNOLOGY.

Chairs Moriwaki and Dela Cruz, Vice Chairs Dela Cruz and Keith-Agaran, and Members of the Committees.

The Hawaii Technology Development Corporation (HTDC) **supports the intent with suggested amendments** on SB1420 that creates the Hawaii Diversification and Resilience in a Vibrant Economy Program (HI DRiVE) and special fund, which requires the HTDC to build on small business innovation research phase II awards and use funds to support phase III efforts to commercialize technology, develop manufacturing infrastructure, acquire equipment or materials, and support training or quality systems. Requires the governor to apply for \$100,000,000 in economic diversification assistance from the federal government for the creation of the HI DRiVE program..

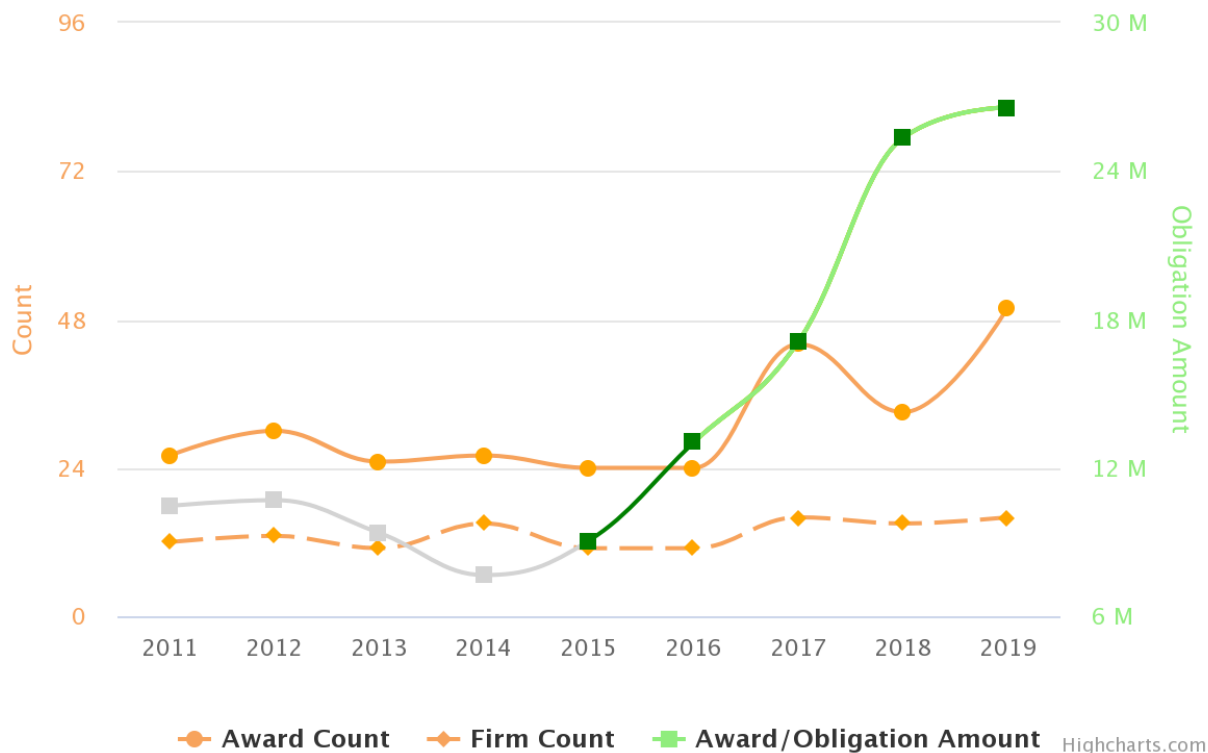
HTDC supports efforts to diversify Hawaii’s economy through innovation. HTDC currently administers the Hawai’i Small Business Innovation Research (HSBIR) program providing matching grants and wrap around support services covering grant-writing assistance to technology commercialization assistance. The funding appropriated by the legislature for the phase II program has varied from year to year, but overall the funding coming into the State has seen a noticeable increase. Funding was not appropriated in FY21 and is not part of the Administration’s FY22 budget.

	HSBIR phase II and phase III			
	2017	2018	2019	2020
Total Application Received	9	9	12	16
Total Application Funded	8	5	6	14
First-time Applications Funded	1	0	1	3
Total Match Requested	\$13,000,000	\$2,745,691	\$4,500,840	\$6,300,000
Total Match Grants Awarded	\$1,900,000	\$900,000	\$1,425,000	\$900,000

New full time	131	166	135	509
Job Saved		22	34	168

HTDC tracks the impact of the Hawai'i SBIR program through the federal SBIR website. The following chart depicts the Federal grant awards won by Hawai'i companies since 2011.

Award Summary By Year



HTDC agrees that more resources to support technology commercialization are needed. HTDC has secured a \$125,000 federal FAST grant from the SBA for the past 3 years to expand and support the SBIR program. HTDC uses part of our \$700,000 annual federal NIST Manufacturing Extension Partnership contract to administer the Hawai'i SBIR program. Most federal funding opportunities have a **non-federal cash match requirement** and **do not allow funds to be disbursed to companies as grants**. We are not familiar with the economic diversification assistance program and **have not been able identify any federal funding opportunities** like the one mentioned in the bill.

We are working very closely with the University of Hawaii on pilot initiatives aimed at getting University technology to market and increasing the pipeline of new small businesses securing federal SBIR funds. We are also partnered with the University of Hawaii and the Naval Information Warfare Center (NIWC formerly known as SPAWAR) Pacific on the Hawai'i Tech Bridge Program to facilitate new opportunities for local technology companies to provide solutions for the Navy. Exploring new project opportunities for the Hawai'i SBIR is well aligned with HTDC's current priorities.

HTDC has comments on Section 2, which states on page 4, lines 13-14 that “[t]he development corporation shall provide a grant to any Hawaii-based business” HTDC suggests the language be revised to “**may** provide a grant” which allows the program to ensure grants are only made to projects which offer economic development benefit to the State, and only if funding is available. HTDC also requests clarification if the program is intended to be an alternative or supplement to the Hawai’i SBIR grant program defined in 206M-15 which allows awards up to 50% for phase II and phase III grants. HTDC requests clarification that the rules including eligibility requirements and the priorities should be the same as defined in HAR 15-32 used for the 206M-15 program. One discrepancy is that the program defined by 206M-15 authorizes grants for “any business in Hawai’i” while the new section proposed by this bill would authorize grants to “Hawaii-based” businesses. Under the 206M-15 program, a business is eligible for a grant if it does research in Hawai’i and agrees to maintain its principal place of business and conduct a substantial portion of its operations in the State. To be consistent with our current program rules, we suggest either a reference to the rules of the existing program be included, or the wording on page 4, lines 13-14 be replaced with “[t]he development corporation may provide a grant to any business in Hawaii”.

HTDC defers to the Department and Attorney General on technical concerns raised on the bill. HTDC supports this bill provided it does not supplant the priorities in the Administration’s budget. Thank you for the opportunity to offer these comments.

SB-1420

Submitted on: 2/25/2021 6:46:58 AM

Testimony for GVO on 3/2/2021 10:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Todd Robertson	Testifying for Hyperspective Studios, Inc.	Support	No

Comments:

We at Hyperspective support SB1420, as it is important to supporting the very-much-needed diversification of our economy.

Thank you,

Todd Robertson

SB-1420

Submitted on: 2/25/2021 8:27:32 AM

Testimony for GVO on 3/2/2021 10:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Isar Mostafanezhad	Testifying for Nalu Scientific, LLC	Support	No

Comments:

Using Federal funds to help diversity Hawaii economy is an excellent plan. We are in strong support of this bill.



**Testimony to the Senate Committee on Government Operations &
Senate Committee on Ways and Means
Tuesday, March 2, 2021 at 10:00 A.M.
Written Testimony**

RE: SB 1420, RELATING TO TECHNOLOGY

Chairs Moriwaki and Dela Cruz, Vice-Chair Keith-Agaran and Members of the Committees:

The Chamber of Commerce Hawaii ("The Chamber") **supports the intent** of SB 1420 which: (1) creates the Hawaii Diversification and Resilience in a Vibrant Economy Program (HI DRiVE); establishes a special fund which requires the Hawaii Technology Development Corporation (HTDC) to build on small business innovation research phase II awards; (3) utilizes funds to support phase III efforts to commercialize technology, develop manufacturing infrastructure, acquire equipment or materials, and support training or quality systems; and (4) requires the governor to apply for \$100,000,000 in economic diversification assistance from the federal government for the creation of the HI DRiVE program.

The Chamber is Hawaii's leading statewide business advocacy organization, representing about 2,000+ businesses. Approximately 80% of our members are small businesses with less than 20 employees. As the "Voice of Business" in Hawaii, the organization works on behalf of members and the entire business community to improve the state's economic climate and to foster positive action on issues of common concern.

HTDC has successfully assisted Hawaii companies who received Federal Small Business Innovation Research Grants (SBIR) with matching state grant funds. As a result, Hawaii companies have attracted \$57 million in federal dollars to return to the state plus commercialization funding for every state dollar invested through this program. The federal SBIR grant program has continued its efforts to move companies through grant awards to commercial product sales, and this bill would allow HTDC to continue to provide the necessary support of a commercialization assistance program to all phases in the program for local businesses here in Hawaii.



Chamber of Commerce HAWAII

The Voice of Business

HTDC and its programs actively support and advocate for the specific needs of Hawaii's technology and manufacturing businesses. We have seen a rising demand from local companies wanting to manufacture here in Hawaii in order to maintain quality control, as well as an increasing desire for 'Made in Hawaii' products from consumers globally, which will continue to economically benefit our state. HTDC and its programs are integral to the growth and success of these companies who seek information and guidance on what it takes to succeed in Hawaii.

Thank you for this opportunity to provide testimony.