

JAN 20 2017

S.B. NO. 759

A BILL FOR AN ACT

RELATING TO THE HIGH 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 a new part to be appropriately designated and
3 to read as follows:

4 **"PART . 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:



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

6 **"PART . HAWAII TECHNOLOGY INVESTMENT PROGRAM**

7 **§206M-AA Definitions.** As used in this part:

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

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

20 "Computer program" means an ordered set of computer data
21 representing coded instructions or statements that, when



1 executed by a computer, causes the computer to perform one or
2 more computer operations.

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

9 "Financial organization" means an organization authorized
10 to do business in Hawaii that is:

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

19 "Program" means the Hawaii technology investment program.

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



1 "Qualified high technology business":

2 (1) Means a business, employing or owning capital or
3 property, or maintaining an office, in this State
4 that:

5 (A) Conducts more than fifty per cent of its
6 activities in performing qualified research in
7 the State; or

8 (B) Receives more than fifty per cent of its gross
9 income derived from qualified research; provided
10 that the income is received from:

11 (i) Products sold from, manufactured in, or
12 produced in the State; or

13 (ii) Services performed in this State; and

14 (2) Does not include:

15 (A) Any trade or business involving the performance
16 of services in the field of law, architecture,
17 accounting, actuarial science, consulting,
18 athletics, financial services, or brokerage
19 services;

20 (B) Any banking, insurance, financing, leasing,
21 rental, investing, or similar business; any



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

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

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

18 "Qualified research" means:

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



1 (2) The development and design of computer software using
2 fourth generation or higher software development tools
3 or native programming languages to design and
4 construct unique and specific code to create
5 applications and design databases for sale or license;
6 or

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

10 "Venture capital investment" means any of the following
11 investments in a qualified high technology business:

12 (1) Common or preferred stock and equity securities
13 without a repurchase requirement for at least five
14 years;

15 (2) A right to purchase stock or equity securities;

16 (3) Any debenture or loan, whether or not convertible or
17 having stock purchase rights, which:

18 (A) Is subordinated, together with security interests
19 against the assets of the borrower, by their
20 terms to all borrowings of the borrower from
21 other institutional lenders;



1 (B) Is for a term of not less than three years; and

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

4 (4) General or limited partnership interests; and

5 (5) Membership interests in limited liability companies.

6 **§206M-BB Formation of Hawaii technology investment**

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

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

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



1 proposed to be exempt from income taxation under chapter 235, it
2 shall furnish sufficient information and notify the department
3 of taxation and investors of the tax exempt status of that
4 program.

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

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

- 17 (1) The financial stability and integrity of the financial
18 organization;
- 19 (2) The ability of the financial organization to establish
20 or act as a regulated investment company for the
21 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 SECTION 3. Chapter 206M, Hawaii Revised Statutes, is
16 amended by adding two new sections to be appropriately
17 designated and to read as follows:

18 "§206M-DD Hydrogen investment capital special fund. (a)

19 There shall be established the hydrogen investment capital
20 special fund, into which shall be deposited:

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



- 1 (2) All contributions from public or private partners;
- 2 (3) All interest earned on or accrued to moneys deposited
- 3 in the special fund; and
- 4 (4) Any other moneys made available to the special fund
- 5 from other sources.

6 (b) Moneys in the fund shall be expended by the
 7 development corporation:

- 8 (1) To provide seed capital for and venture capital
- 9 investments in private sector and federal projects for
- 10 research, development, testing, and implementation of
- 11 the Hawaii renewable hydrogen program, as set forth in
- 12 section 196-10; and
- 13 (2) For any other purpose deemed necessary to carry out
- 14 the purposes of section 196-10.

15 **§206M-EE HI growth initiative; report to legislature.** The
 16 development corporation shall submit a report to the legislature
 17 no later than twenty days prior to each regular session on the
 18 specific annual outcome achieved through the activities and
 19 expenditures of the HI growth initiative."

20 SECTION 4. Section 206M-2, Hawaii Revised Statutes, is
 21 amended by amending subsection (a) to read as follows:



1 "(a) There is established the high technology development
2 corporation, which shall be a public body corporate and politic
3 and an instrumentality and agency of the State. The development
4 corporation shall be placed within the department of business,
5 economic development, and tourism for administrative purposes,
6 pursuant to section 26-35. The purpose of the development
7 corporation shall be to facilitate the growth and development of
8 the commercial high technology industry in Hawaii. Its duties
9 shall include, but not be limited to:

- 10 (1) Developing and encouraging industrial parks as high
11 technology innovation centers and developing or
12 assisting with the development of projects within or
13 outside of industrial parks, including participating
14 with the private sector in such development;
- 15 (2) Providing financial and other support and services to
16 Hawaii-based high technology companies;
- 17 (3) Collecting and analyzing information on the state of
18 commercial high technology activity in Hawaii;
- 19 (4) Promoting and marketing Hawaii as a site for
20 commercial high technology activity; [and]



- 1 (5) Providing advice on policy and planning for
- 2 technology-based economic development [-]; and
- 3 (6) Establishing programs to stimulate private capital
- 4 investment in Hawaii toward investments that promote
- 5 the welfare of citizens of this State, economic
- 6 growth, employment, and economic diversification."

7 SECTION 5. Section 206M-3, Hawaii Revised Statutes, is
 8 amended by amending subsection (a) to read as follows:

9 "(a) The development corporation shall have all the powers
 10 necessary to carry out its purposes, including the powers to:

- 11 (1) Sue and be sued;
- 12 (2) Have a seal and alter the same at its pleasure;
- 13 (3) Make and execute, enter into, amend, supplement, and
- 14 carry out contracts and all other instruments
- 15 necessary or convenient for the exercise of its powers
- 16 and functions under this chapter, including, with the
- 17 approval of the governor, a project agreement, or an
- 18 amendment or supplement to an existing project
- 19 agreement, with a qualified person, and to enter into
- 20 and carry out any agreement whereby the obligations of
- 21 a qualified person under a project agreement shall be



- 1 unconditionally guaranteed or insured by, or the
2 performance thereof assigned to, or guaranteed or
3 insured by, a person or persons other than the
4 qualified person; and extend or renew any project
5 agreement or any other agreement related thereto;
6 provided that any such renewal or extension shall be
7 subject to the approval of the governor unless made in
8 accordance with provisions for the extension or
9 renewal contained in a project agreement or related
10 agreement theretofore approved by the governor;
- 11 (4) Make and alter bylaws for its organization and
12 internal management;
- 13 (5) Adopt rules under chapter 91 necessary to effectuate
14 this chapter in connection with industrial parks,
15 projects, multi-project programs, and the operations,
16 properties, and facilities of the development
17 corporation;
- 18 (6) Through its chief executive officer, appoint officers,
19 agents, and employees, prescribe their duties and
20 qualifications, and fix their salaries, without regard
21 to chapter 76;



- 1 (7) Prepare or cause to be prepared development plans for
2 industrial parks;
- 3 (8) Acquire, own, lease, hold, clear, improve, and
4 rehabilitate real, personal, or mixed property and
5 assign, exchange, transfer, convey, lease, sublease,
6 or encumber any project, including by way of
7 easements;
- 8 (9) Acquire, construct, improve, install, equip, or
9 develop or provide for the acquisition, construction,
10 improvement, installation, equipping, or development
11 of any project and designate a qualified person as its
12 agent for such purpose;
- 13 (10) Own, hold, assign, transfer, convey, exchange, lease,
14 sublease, or encumber any project;
- 15 (11) Arrange or initiate appropriate action for the
16 planning, replanning, opening, grading, or closing of
17 streets, roads, roadways, alleys, easements, or other
18 places, the furnishing of improvements, the
19 acquisition of property or property rights, or the
20 furnishing of property or services in connection with
21 an industrial park or project;



- 1 (12) Prepare, or cause to be prepared, plans,
2 specifications, designs, and estimates of cost for the
3 acquisition, construction, reconstruction,
4 improvement, installation, equipping, development, or
5 maintenance of any project or industrial park, and
6 from time to time modify the plans, specifications,
7 designs, or estimates;
- 8 (13) Engage the services of consultants on a contractual
9 basis for rendering professional and technical
10 assistance and advice;
- 11 (14) Procure insurance [~~against any loss in connection with~~
12 ~~its property and other assets and operations in~~
13 ~~amounts and from insurers as it deems desirable,] as
14 may be necessary;~~
- 15 (15) Accept and expend gifts or grants in any form from any
16 public agency or from any other source;
- 17 (16) Issue special purpose revenue bonds and refunding
18 special purpose revenue bonds pursuant to and in
19 accordance with this chapter in principal amounts as
20 may be authorized from time to time by law to finance
21 or refinance the cost of a project, singly or as part



1 of a multi-project program, or an industrial park as
2 authorized by law and provide for the security thereof
3 as permitted by this chapter;

4 (17) Lend or otherwise apply the proceeds of the bonds
5 issued for a project or an industrial park either
6 directly or through a trustee to a qualified person
7 for use and application by the qualified person in the
8 acquisition, construction, improvement, installation,
9 equipping, or development of a project or industrial
10 park, or agree with the qualified person whereby any
11 of these activities shall be undertaken or supervised
12 by that qualified person or by a person designated by
13 the qualified person;

14 (18) As security for the payment of the principal of,
15 premium, if any, and interest of the special purpose
16 revenue bonds issued for a project to:

17 (A) Pledge, assign, hypothecate, or otherwise
18 encumber all or any part of the revenues and
19 receipts derived or to be derived by the
20 development corporation under the project



1 agreement for the project for which the bonds are
2 issued;

3 (B) Pledge and assign the interest and rights of the
4 development corporation under the project
5 agreement or other agreement with respect to the
6 project or the special purpose revenue bonds;

7 (C) Pledge and assign any bond, debenture, note, or
8 other evidence of indebtedness received by the
9 development corporation with respect to the
10 project; or

11 (D) Any combination of the foregoing;

12 (19) With or without terminating a project agreement,
13 exercise any and all rights provided by law for entry
14 and reentry upon or take possession of a project at
15 any time or from time to time upon breach or default
16 by a qualified person under a project agreement,
17 including any action at law or in equity for the
18 purpose of effecting its rights of entry or reentry or
19 obtaining possession of the project or for the
20 payments of rentals, user taxes, or charges, or any
21 other sum due and payable by the qualified person to



- 1 the development corporation pursuant to the project
- 2 agreement;
- 3 (20) Enter into arrangements with qualified county
- 4 development entities whereby the board would provide
- 5 financial support to qualified projects proposed;
- 6 (21) Create an environment in which to support high
- 7 technology economic development, including but not
- 8 limited to:
- 9 (A) Supporting all aspects of technology-based
- 10 economic development;
- 11 (B) Developing instructive programs, identifying
- 12 issues and impediments to the growth of high
- 13 technology industry in Hawaii; and
- 14 (C) Providing policy analysis and information
- 15 important to the development of high technology
- 16 industries in Hawaii;
- 17 (22) Develop [~~programs~~]:
- 18 (A) Programs that support start-up and existing high
- 19 technology companies in Hawaii and attract new
- 20 companies to relocate to or establish operations
- 21 in Hawaii by assessing the needs of these



1 companies and providing the physical and
2 technical infrastructure to support their
3 operations; and

4 (B) Specialized programs designed to encourage the
5 development of new products, businesses, and
6 markets;

7 (23) Coordinate its efforts with other public and private
8 agencies involved in stimulating technology-based
9 economic development in Hawaii, including but not
10 limited to:

11 (A) The department of business, economic development,
12 and tourism;

13 (B) The Pacific international center for high
14 technology research; and

15 (C) The office of technology transfer and economic
16 development of the University of Hawaii;

17 (24) Promote and market Hawaii as a site for commercial
18 high technology activity, including the expenditure of
19 funds for protocol purposes at the discretion of the
20 board;



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



1 (30) Consent, subject to the provisions of any contract
2 with noteholders or bondholders, whenever the
3 corporation deems it necessary or desirable in the
4 fulfillment of the purposes of this chapter, to the
5 modification, with respect to rate of interest, time
6 of payment of any installment of principal or
7 interest, or any other terms, of any contract or
8 agreement of any kind to which the corporation is a
9 party;

10 (31) Invest any funds held in reserves or sinking funds, or
11 any funds not required for immediate disbursement, in
12 such investments as may be lawful for fiduciaries in
13 the State; [and]

14 (32) Coordinate the development corporation's programs with
15 any education and training program;

16 (33) Prepare, publish, and distribute such technical
17 studies, reports, bulletins, and other materials as it
18 deems appropriate, subject only to the maintenance and
19 respect for confidentiality of client proprietary
20 information;



- 1 (34) Organize, conduct, sponsor, or cooperate in and assist
- 2 in the conduct of conferences, demonstrations, and
- 3 studies relating to the stimulation and formation of
- 4 businesses;
- 5 (35) Enter into agreements or other transactions with any
- 6 federal, state, or county agency;
- 7 (36) Appear in its own behalf before state, county, or
- 8 federal agencies;
- 9 (37) Appoint advisory committees as deemed necessary;
- 10 (38) Exercise any other powers of a corporation organized
- 11 under the laws of the State; and
- 12 ~~[(+32)]~~ (39) Do any and all things necessary or convenient to
- 13 carry out its purposes and exercise the powers given
- 14 and granted in this chapter."

15 SECTION 6. Chapter 211F, Hawaii Revised Statutes, is
16 repealed.

17 SECTION 7. In codifying the new sections added by sections
18 1 to 3 of this Act, the revisor of statutes shall substitute
19 appropriate section numbers for the letters used in designating
20 the new sections in this Act.



1 SECTION 8. All rights, powers, functions, and duties of
2 the Hawaii strategic development corporation are transferred to
3 the high technology development corporation.

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

18 Any employee who, prior to this Act, is exempt from civil
19 service and is transferred as a consequence of this Act may
20 retain the employee's exempt status, but shall not be appointed
21 to a civil service position as a consequence of this Act. An



1 exempt employee who is transferred by this Act shall not suffer
2 any loss of prior service credit, vacation or sick leave credits
3 previously earned, or other employee benefits or privileges as a
4 consequence of this Act; provided that the employees possess
5 legal and public employment requirements for the position to
6 which transferred or appointed, as applicable; provided further
7 that subsequent changes in status may be made pursuant to
8 applicable employment and compensation laws. The board of
9 directors of the high technology development corporation may
10 prescribe the duties and qualifications of these employees and
11 fix their salaries without regard to chapter 76, Hawaii Revised
12 Statutes.

13 SECTION 9. All rules, policies, procedures, guidelines,
14 and other material adopted or developed by the Hawaii strategic
15 development corporation to implement provisions of the Hawaii
16 Revised Statutes that are reenacted or made applicable to the
17 high technology development corporation by this Act shall remain
18 in full force and effect until amended or repealed by the high
19 technology development corporation pursuant to chapter 91,
20 Hawaii Revised Statutes. In the interim, every reference to the
21 Hawaii strategic development corporation or the board of



1 directors of the Hawaii strategic development corporation in
2 those rules, policies, procedures, guidelines, and other
3 material is amended to refer to the high technology development
4 corporation or the board of directors of the high technology
5 development corporation, as appropriate.

6 SECTION 10. All deeds, leases, contracts, loans,
7 agreements, permits, or other documents executed or entered into
8 by or on behalf of the Hawaii strategic development corporation,
9 pursuant to the provisions of the Hawaii Revised Statutes that
10 are reenacted or made applicable to the high technology
11 development corporation by this Act shall remain in full force
12 and effect. Effective July 1, 2017, every reference to the
13 Hawaii strategic development corporation or the board of
14 directors of the Hawaii strategic development corporation in
15 those deeds, leases, contracts, loans, agreements, permits, or
16 other documents shall be construed as a reference to the high
17 technology development corporation or the board of directors of
18 the high technology development corporation, as appropriate.

19 SECTION 11. All appropriations, records, equipment,
20 machines, files, supplies, contracts, books, papers, documents,
21 maps, and other personal property heretofore made, used,



1 acquired, or held by the Hawaii strategic development
 2 corporation relating to the functions transferred to the high
 3 technology development corporation shall be transferred with the
 4 functions to which they relate.

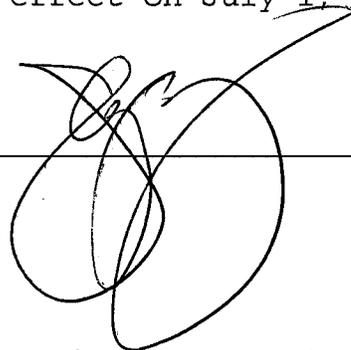
5 SECTION 12. This Act does not affect rights and duties
 6 that matured, penalties that were incurred, and proceedings that
 7 were begun before its effective date.

8 SECTION 13. Statutory material to be repealed is bracketed
 9 and stricken. New statutory material is underscored.

10 SECTION 14. This Act shall take effect on July 1, 2017.

11

INTRODUCED BY: _____



Breene Hunt
Clarence Mikihiko



S.B. NO. 759

Report Title:

Hawaii Strategic Development Corporation; High Technology
Development Corporation; Transfer

Description:

Transfers all powers, duties, and obligations held by the Hawaii
strategic development corporation to the high technology
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.*

