

JAN 24 2019

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# A BILL FOR AN ACT

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RELATING TO TECHNOLOGY.

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

**PART I**

SECTION 1. The legislature finds that to be successful in the twenty-first century global economy, Hawaii must position itself as a leader in technology development, transfer, and commercialization. Significant progress has been made in past years through programs supported by federal and state initiatives, such as programs administered by the Hawaii technology development corporation, Hawaii strategic development corporation, and the Hawaii technology development venture. However, the legislature believes that additional efforts are required to move Hawaii's technology industry to achieve local technology commercialization. Innovation in science and technology fields will not only enable the State to succeed in the global marketplace, but will also support the State's sustainable economic development goals to include a viable and vibrant technology and manufacturing labor force.



1       The purpose of this Act is to combine the resources,  
2 duties, and responsibilities of the Hawaii technology  
3 development corporation and the Hawaii strategic development  
4 corporation and establish a new entity to be known as the Hawaii  
5 innovation and technology corporation to:

6       (1) Promote, develop, and expand Hawaii's innovation and  
7 technology industry;

8       (2) Promote a more diverse economy that offers high  
9 quality, knowledge-based jobs; and

10       (3) Develop policy and resource allocations to enable and  
11 support start-up companies, sustain existing  
12 companies, and attract companies to relocate or  
13 establish offices in Hawaii.

## 14                                   PART II

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

### 18                   "PART           .   STRATEGIC DEVELOPMENT PROGRAMS

#### 19                                   A. General Provisions

20       §206M-A Hawaii innovation and technology corporation  
21 revolving fund. There is established the Hawaii innovation and



1 technology corporation revolving fund. The following moneys  
2 shall be deposited into the Hawaii innovation and technology  
3 corporation revolving fund and shall not be considered part of  
4 the general fund: all moneys appropriated by the legislature,  
5 received as repayments of loans, earned on investments, received  
6 pursuant to a venture agreement, received as royalties, received  
7 as premiums or fees charged by the corporation, or otherwise  
8 received by the corporation.

9 **§206M-B Hydrogen investment capital special fund. (a)**

10 There shall be established the hydrogen investment capital  
11 special fund, into which shall be deposited:

- 12 (1) Appropriations made by the legislature to the fund;  
13 (2) All contributions from public or private partners;  
14 (3) All interest earned on or accrued to moneys deposited  
15 in the special fund; and  
16 (4) Any other moneys made available to the special fund  
17 from other sources.

18 (b) Moneys in the fund shall be expended by the  
19 corporation:

- 20 (1) To provide seed capital for and venture capital  
21 investments in private sector and federal projects for



1 research, development, testing, and implementation of  
2 the Hawaii renewable hydrogen program, as set forth in  
3 section 196-10; and

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

6 **§206M-C Contracts for services necessary for management**  
7 **and operation of corporation.** The corporation may contract with  
8 others, public or private, for the provision of all or a portion  
9 of the services necessary for the management and operation of  
10 the corporation. The corporation shall have the power to use  
11 all appropriations, grants, contractual reimbursements, and all  
12 other funds not appropriated for a designated purpose to pay for  
13 the proper general expenses and to carry out the purposes of the  
14 corporation.

15 **§206M-D Actions of corporation; guidelines.** (a) All  
16 actions taken by the corporation shall be necessary to achieve  
17 the purposes and objectives of this part. The corporation shall  
18 evaluate all programs after three years to determine their  
19 effectiveness. The corporation shall establish rules to assure  
20 equal opportunity to minority-owned businesses, and shall  
21 encourage the development of minority-owned businesses. The



1 corporation shall support and encourage participation by Hawaii  
2 companies in federal grant programs, such as the Small Business  
3 Innovation Research Program.

4 (b) Financial participation shall be made on the condition  
5 that the recipient of the assistance shall utilize the money to  
6 assist economic development projects within the State that have  
7 potential for creating new jobs or retaining current jobs within  
8 the State.

9 (c) Financial participation by the corporation in private  
10 financial investment funds shall be made with the provision that  
11 the private fund shall make investments in Hawaii in amounts at  
12 least equal to the amount of state participation.

13 (d) The corporation shall not make direct investments in  
14 individual businesses except upon a two-thirds vote of the board  
15 in each case considered. When deciding whether to enter into a  
16 direct investment, the corporation shall consider whether:

- 17 (1) The project is economically sound;  
18 (2) The project can be successfully completed;  
19 (3) The project will promote economic diversification;



(4) The project is located in or will locate in the State and has a reasonable potential to create desirable employment opportunities for residents of the State;

(5) The project has been unable to obtain sufficient funding on reasonable terms through ordinary means; and

(6) The project can be partially financed through ordinary means at reasonable terms.

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

(e) Investments by the corporation to persons shall be made on the basis of solicitation and a competitive technical review process, subject to the availability of funds allocated to the corporation for making investments. Investments by the corporation shall not be subject to chapter 42F. Any organization applying for an investment shall meet the following standards:

(1) Have bylaws or policies that describe the manner in which business is conducted and policies relating to



1 nepotism and management of potential conflict of  
2 interest situations;

3 (2) Be licensed and accredited, as applicable, in  
4 accordance with the requirements of federal, state,  
5 and county governments;

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

10 (4) Comply with other requirements as the board may  
11 prescribe.

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



1           §206M-F Confidentiality of trade secrets or the like;  
2 disclosure of financial information. Notwithstanding chapter  
3 92, 92F, or any other law to the contrary, any documents or data  
4 made or received by any member or employee of the corporation,  
5 to the extent that the material or data consist of trade  
6 secrets, commercial or financial information regarding the  
7 operation of any business conducted by an applicant for, or  
8 recipient of, any form of assistance that the corporation is  
9 empowered to render, or regarding the competitive position of  
10 that applicant in a particular field of endeavor, shall not be a  
11 public record; provided that if the corporation purchases a  
12 qualified security from an applicant, the commercial and  
13 financial information, excluding confidential business  
14 information, shall be deemed to become a public record of the  
15 corporation. If the information is made or received by any  
16 member or employee of the corporation after the purchase of the  
17 qualified security, it shall become a public record three years  
18 from the date the information was made or received. Any  
19 discussion or consideration of trade secrets or commercial or  
20 financial information, shall be held by the board, or any  
21 subcommittee of the board, in executive sessions closed to the





1 public; provided that the purpose of any such executive session  
2 shall be set forth in the official minutes of the corporation  
3 and business which is not related to that purpose shall not be  
4 transacted, nor shall any vote be taken during the executive  
5 sessions.

6       **§206M-G Requests for assistance from corporation;**

7 **procedure.** (a) The board shall approve or disapprove requests  
8 for assistance within ninety days of receiving a written  
9 application. Upon written request by an applicant, the board  
10 may reconsider its denial of an application for assistance or  
11 may waive the ninety-day deadline for approving or disapproving  
12 an application.

13 (b) Any person who submits any statement, report,  
14 application, or other document to the corporation which is known  
15 to the person to be false in any material respect shall be  
16 guilty of a class C felony.

17 (c) The corporation may condition any assistance of any  
18 type by placing restrictions on the recipient in regard to the  
19 recipient's assets or indebtedness or in any other manner deemed  
20 appropriate by the corporation. A recipient who accepts  
21 assistance from the corporation shall be deemed to agree to be



1 bound by any conditions or restrictions imposed by the  
2 corporation.

3       **\$206M-H Private sector financial support.** Significant  
4 private sector financial support shall be associated with any  
5 economic development project for which the corporation provides  
6 assistance.

7       **\$206M-I Limitations on debt owed to corporation.** Not more  
8 than \$5,000,000 in financial assistance, excluding rights and  
9 royalties under a venture capital agreement, shall be provided  
10 to any one enterprise at any time. The direct investments of  
11 the corporation shall not exceed five per cent of the assets of  
12 the corporation, excluding rights and royalties under a venture  
13 capital agreement, provided that by a two-thirds vote of the  
14 board this amount may be increased to a limit of twenty-five per  
15 cent of the total assets of the corporation.

16       **\$206M-J Limitation on liability.** Chapters 661 and 662 or  
17 any other law to the contrary notwithstanding, nothing in this  
18 part shall create an obligation, debt, claim, cause of action,  
19 claim for relief, charge, or any other liability of any kind  
20 whatsoever in favor of any person or entity, without regard to  
21 whether that person or entity receives any benefits under this



1 chapter, against the State or its officers and employees. The  
2 State and its officers and employees shall not be liable for the  
3 results of any investment, purchase of securities, loan, or  
4 other assistance provided pursuant to this part. Nothing in  
5 this part shall be construed as authorizing any claim against  
6 the corporation in excess of any note, loan, or other specific  
7 indebtedness incurred by the corporation or in excess of any  
8 insurance policy acquired for the corporation or its employees.

9       **§206M-K HI growth initiative; report to legislature.** The  
10 corporation shall submit an annual report to the legislature no  
11 later than twenty days prior to the convening of a regular  
12 session on the specific annual outcome achieved through the  
13 activities and expenditures of the HI growth initiative.

14       **§206M-L Annual audit.** The books and records of the  
15 corporation shall be subject to an annual audit by an  
16 independent auditor.

17       **§206M-M Cooperation with corporation by state agencies.**  
18 Every state agency may render services to the corporation upon  
19 request of the corporation.



B. Program for Seed Capital Assistance

**§206M-N Establishment.** The corporation shall establish a program for seed capital assistance.

**§206M-O Seed capital investments.** Subject to this subpart, the corporation may invest in:

(1) A certified development company under sections 501 to 503 of the Small Business Investment Act of 1958, 15 U.S.C. 695 to 697, and the regulations adopted under those sections;

(2) A small business investment company under the Small Business Investment Act, 15 U.S.C. 631 to 634, 636 to 649, and the regulations adopted under those sections;

(3) A minority enterprise small business investment corporation or equivalent venture capital corporation;

(4) A similar entity that may leverage its capital under a federal program; or

(5) A seed capital fund or partnership.

**§206M-P Purposes and terms of investments.** (a)

Investments may be used for any purpose consistent with the purposes and objectives of this subpart, including but not limited to:



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

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

C. Program for Venture Capital Assistance

**§206M-Q Establishment.** The corporation shall establish a program for venture capital.

**§206M-R Venture capital investments.** Subject to this subpart, the corporation may invest in:

- (1) A certified development company under sections 501 to 503 of the Small Business Investment Act of 1958, 15 U.S.C. 695 to 697, and the regulations adopted under those sections;



- (2) A small business investment company under the Small Business Investment Act, 15 U.S.C. 631 to 634, 636 to 649, and the regulations adopted under those sections;
- (3) A minority enterprise small business investment corporation or equivalent venture capital corporation;
- (4) A similar entity that may leverage its capital under a federal program; or
- (5) A venture capital fund or partnership.

**§206M-S Purposes and terms of investments. (a)**

Investments may be used for any purpose consistent with the purposes and objectives of this subpart.

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

**D. Program for Capital Access**

**§206M-T Establishment.** The corporation shall establish a program for capital access.

**§206M-U Financial assistance.** The corporation, through the program for capital access, may:



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

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

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

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

(b) The corporation shall give paramount priority in procuring insurance, guarantees, and letters of credit to economic development projects that have the greatest potential



1 for creating new jobs or retaining current jobs within the  
2 State.

3       **§206M-W Conditions for procuring of insurance, loan**  
4 **guarantees, or letters of credit.** (a) Insurance, guarantees,  
5 or letters of credit shall not be procured pursuant to section  
6 206M-U unless the corporation is assured that the loans,  
7 debentures, or leases insured, or guaranteed, or for which  
8 letters of credit are issued, shall be used to assist economic  
9 development projects that also have significant private sector  
10 financial support.

11       (b) Insurance, guarantees, or letters of credit may be  
12 procured on such terms and conditions as the corporation, in its  
13 sole discretion, shall determine to be reasonable, appropriate,  
14 and consistent with the purposes and objectives of this chapter.

15       (c) The corporation shall charge the lender or the  
16 borrower, or both, a fee or premium for procuring loan,  
17 debenture, or lease insurance, guarantee, or a letter of credit.  
18 Rules for premiums or fees shall be established by the  
19 corporation.

20       **§206M-X Program for capital access participation**  
21 **agreements.** The corporation shall enter into agreements with





1 lenders for participation in the program for capital access that  
2 shall include but not be limited to:

3 (1) Authorization for the lender to determine, collect,  
4 and transmit to the corporation a fee or premium  
5 charge within a specified range established consistent  
6 with the purposes and objectives of the corporation;

7 (2) Specification of whether the premium charge shall be  
8 paid by the lender, the borrower, the corporation, or  
9 by a combination thereof in specified proportions;

10 (3) The procedure by which a lender may make a claim upon  
11 the corporation upon default by the borrower, and the  
12 conditions under which a claim may be made; and

13 (4) The maximum amount of claims a lender may make upon  
14 the corporation, which amount may be equal to or less  
15 than the proportion of the total premiums contributed  
16 by the corporation.

17 **§206M-Y Establishment of special funds to secure loan**  
18 **insurance obligations; source of funds.** The corporation may  
19 establish a special fund or funds for capital access into which  
20 fees or premiums collected by the corporation are deposited.



1 E. Hawaii Technology Investment Program

2 §206M-Z Definitions. As used in this subpart:

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

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

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

19 "Computer software" means computer data, a computer  
20 program, or a set of computer programs, procedures, or  
21 associated documentation concerned with the operation and



1 function of a computer system, and includes both systems and  
2 application programs and subdivisions, such as assemblers,  
3 compilers, routines, generators, and utility programs.

4 "Financial organization" means an organization authorized  
5 to do business in Hawaii that is:

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

15 "Program" means the Hawaii technology investment program.

16 "Program manager" means a financial organization selected  
17 by the corporation to manage the program.

18 "Qualified high technology business":

- 19 (1) Means a business, employing or owning capital or  
20 property, or maintaining an office, in this State  
21 that:



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



1 deduction is allowable under section 611 (with  
2 respect to allowance of deduction for depletion),  
3 613 (with respect to basis for percentage  
4 depletion), or 613A (with respect to limitation  
5 on percentage depleting in cases of oil and gas  
6 wells) of the Internal Revenue Code;

7 (C) Any business operating a hotel, motel,  
8 restaurant, or similar business; and

9 (D) Any trade or business involving a hospital, a  
10 private office of a licensed health care  
11 professional, a group practice of licensed health  
12 care professionals, or a nursing home.

13 "Qualified research" means:

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

16 (2) The development and design of computer software using  
17 fourth generation or higher software development tools  
18 or native programming languages to design and  
19 construct unique and specific code to create  
20 applications and design databases for sale or license;  
21 or



1           (3) Biotechnology,  
2 provided that more than fifty per cent of the business'  
3 activities are qualified research.

4           §206M-AA Formation of Hawaii technology investment  
5 program. (a) The corporation shall establish the Hawaii  
6 technology investment program for the purpose of allowing  
7 individual investors to contribute to the program to invest  
8 venture capital in businesses in Hawaii.

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

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



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

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

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

15 (1) The financial stability and integrity of the financial  
16 organization;

17 (2) The ability of the financial organization to establish  
18 or act as a regulated investment company for the  
19 purposes of this subpart;

20 (3) The ability of the financial organization to satisfy  
21 recordkeeping and reporting requirements for the



1 purposes of a program that allows a program that is  
2 exempt from taxation under chapter 235;

3 (4) The financial organization's plan for promoting the  
4 program and the resources it is willing to allocate to  
5 promote the program;

6 (5) The fees, if any, proposed to be charged to persons  
7 for opening accounts;

8 (6) The minimum initial deposit and minimum contributions,  
9 subject to this section that the financial  
10 organization will require; and

11 (7) Other benefits to the State or its residents included  
12 in the proposal, including fees payable to the State  
13 to cover expenses to operate the program.

14 (e) The corporation may enter into a management contract  
15 of up to ten years with a financial organization. The financial  
16 organization shall provide investment instruments meeting the  
17 requirements of this section. The management contract shall  
18 include, at a minimum, terms requiring the financial  
19 organization to:

20 (1) Take any action required to keep the program in  
21 compliance with requirements of this section and to





1 manage the program to meet the requirements of  
2 sections 851 to 855 of the federal Internal Revenue  
3 Code of 1986, as amended;

4 (2) Keep adequate records of each account, keep each  
5 account segregated from each other's account, and  
6 provide the corporation with the information necessary  
7 to prepare any necessary statements;

8 (3) Provide the corporation with the information necessary  
9 to determine compliance with this section;

10 (4) Provide the corporation access to the books and  
11 records of the financial organization to the extent  
12 needed to determine compliance with the contract;

13 (5) Hold all accounts for the benefit of the account  
14 owner;

15 (6) Be audited at least annually by a firm of independent  
16 certified public accountants selected by the financial  
17 organization, and provide the results of the audit to  
18 the corporation; and

19 (7) Provide the corporation with copies of all regulatory  
20 filings and reports related to the program made by the  
21 financial organization during the term of the



1 management contract or while it is holding any  
2 accounts, other than confidential filings or reports  
3 that will not become part of the program. The  
4 financial organization shall make available for review  
5 by the corporation, the results of any periodic  
6 examination of the financial organization by any state  
7 or federal banking, insurance, or securities  
8 commission, except to the extent that the report or  
9 reports may not be disclosed under applicable law or  
10 the rules of the examining agency.

11 (f) The corporation may require an audit to be conducted  
12 of the operations and financial position of the program manager  
13 at any time if the corporation has any reason to be concerned  
14 about the financial position, the recordkeeping practices, or  
15 the status of accounts of the program manager.

16 (g) During the term of any contract with a program  
17 manager, the corporation shall conduct an examination of the  
18 program manager and its handling of accounts. The examination  
19 shall be conducted at least biennially if the program manager is  
20 not otherwise subject to periodic examination by the



1 commissioner of financial institutions, the Federal Deposit  
2 Insurance Corporation, or other similar entity.

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

5 (1) Accounts previously established and held in investment  
6 instruments at the financial organization may be  
7 terminated;

8 (2) Additional contributions may be made to the accounts;

9 (3) No new accounts may be placed with the financial  
10 organization; and

11 (4) Existing accounts held by the financial organization  
12 shall remain subject to all oversight and reporting  
13 requirements established by the corporation.

14 If the corporation terminates a financial organization as a  
15 program manager, the corporation shall take custody of accounts  
16 held by the financial organization and shall seek to promptly  
17 transfer the accounts to another financial organization that is  
18 selected as a program manager and into investment instruments as  
19 similar to the original instruments as possible.

20 (i) The corporation may enter into contracts for the  
21 services of consultants for rendering professional and technical



1 assistance and advice and any other contracts that are necessary  
2 and proper for the implementation of the program.

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

6 (k) The program manager shall invest all contributions  
7 received from investors in securities not limited to legal  
8 investments under state laws relating to the investment of trust  
9 fund assets by trust companies, including those authorized by  
10 article 8 of chapter 412. Contributions shall be used for  
11 venture capital investment. Investment may be made in any  
12 manner the program deems correct. If no venture capital  
13 investment is available at the time a contribution is made to  
14 the program, the program manager may invest the contribution in  
15 any manner allowed a regulated investment company until a  
16 venture capital investment opportunity occurs. While the  
17 program manager should make a best effort to make venture  
18 capital investments as defined in section 206M-1, if no such  
19 venture capital investment is available in Hawaii, then the  
20 program manager may make venture capital investments outside  
21 Hawaii.



1           §206M-BB   Limitation of liability.   In no case shall the  
2   corporation, officers or employees of the corporation, or the  
3   State be liable for the monetary losses of individuals  
4   contributing to the program.   In all cases, the program manager  
5   shall inform individual contributors of the risk involved in  
6   contributing to the program."

7       SECTION 3. Chapter 206M, Hawaii Revised Statutes, is  
8 amended by amending its title to read as follows:

9 "HAWAII INNOVATION AND TECHNOLOGY [~~DEVELOPMENT~~] CORPORATION"

10           SECTION 4. Chapter 206M, Hawaii Revised Statutes, is  
11 amended by amending the title of part I to read as follows:

12 "PART I. ~~[HAWAII TECHNOLOGY DEVELOPMENT CORPORATION]~~ GENERAL

13 PROVISIONS"

14           SECTION 5. Section 206M-1, Hawaii Revised Statutes, is  
15 amended as follows:

16           1. By adding eight new definitions to be approximately  
17 inserted and to read as follows:

18        "Corporation" means the Hawaii innovation and technology  
19        corporation established by section 206M-2.

20       "Economic development project" means an endeavor related to  
21   industrial, commercial, or advanced technology-based



1 agricultural enterprise. Economic development project shall not  
2 include that portion of an endeavor devoted to the construction  
3 of housing.

4 "Enterprise" means a person with a place of business in  
5 Hawaii which is, or proposes to be, engaged in business in  
6 Hawaii, provided that the endeavor shall not be devoted to the  
7 sale of goods at retail, construction of housing, or tourism-  
8 related services.

9 "Minority-owned businesses" means businesses at least fifty  
10 per cent owned, controlled, and managed by socially or  
11 economically disadvantaged persons.

12 "Person" means a sole proprietorship, partnership, joint  
13 venture, corporation, or other association of persons organized  
14 for commercial or industrial purposes.

15 "Professional investor" means any bank, bank holding  
16 company, savings institution, trust company, insurance company,  
17 investment company registered under the federal Investment  
18 Company Act of 1940, financial services loan company, pension or  
19 profit-sharing trust or other financial institution or  
20 institutional buyer, licensee under the federal Small Business  
21 Investment Act of 1958, or any person, partnership, or other



1 entity of whose resources a substantial amount is dedicated to  
2 investing in securities or debt instruments and whose net worth  
3 exceeds \$250,000.

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

9 "Venture capital investment" means any of the following  
10 investments in a business:

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

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

15 (3) Any debenture or loan, whether or not convertible or  
16 having stock purchase rights, which are subordinated,  
17 together with security interests against the assets of  
18 the borrower, by their terms to all borrowings of the  
19 borrower from other institutional lenders, and that is  
20 for a term of not less than three years, and that has  
21 no part amortized during the first three years; and



1        (4) General or limited partnership interests."

2        2. By amending the definition of "board" to read as  
3 follows:

4        "Board" means the board of directors of the [development]  
5 corporation established in section 206M-2, and any successor  
6 thereto."

7        3. By repealing the definition of "development  
8 corporation":

9        [~~"Development corporation" means the Hawaii technology~~  
10 ~~development corporation established by section 206M-2."~~]

11        SECTION 6. Section 206M-2, Hawaii Revised Statutes, is  
12 amended by amending its title and subsections (a) and (b) to  
13 read as follows:

14        "§206M-2 Establishment of the Hawaii innovation and  
15 technology [development] corporation; purpose. (a) There is  
16 established the Hawaii innovation and technology [development]  
17 corporation, which shall be a public body corporate and politic  
18 and an instrumentality and agency of the State. The  
19 [development] corporation shall be placed within the department  
20 of business, economic development, and tourism for  
21 administrative purposes, pursuant to section 26-35. The purpose





1 of the [development] corporation shall be to facilitate the  
2 growth and development of the commercial technology industry in  
3 Hawaii. Its duties shall include[7] but not be limited to:

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

17 (1) Encouraging, initiating, and aiding in the development  
18 and commercialization of local innovation and  
19 technology;

20 (2) Furnishing the means and methods to institute and grow  
21 local innovation and technology;



1        (3) Developing policy and resource allocations to enable  
2        and support start-up companies, sustain existing  
3        companies, and attract companies to relocate or  
4        establish offices in Hawaii;

5        (4) Attracting resources from public and private sector  
6        organizations and agencies to develop a local  
7        qualified innovation research and technology  
8        workforce;

9        (5) Coordinating with other state agencies and entities to  
10       support the innovation and technology industry;

11       (6) Collecting and analyzing information on the state of  
12       local and global technology activity; and

13       (7) Taking any and all other actions reasonably designed  
14       to promote the purposes of the corporation in the  
15       interest of promoting the general welfare of the  
16       people of the State.

17       (b) The governing body of the [~~development~~] corporation  
18 shall consist of a board of directors having [~~eleven~~] nine  
19 voting members. [~~Seven~~] Six of the members shall be appointed  
20 by the governor for staggered terms pursuant to section 26-34.  
21 [~~Six of the~~] The appointed members shall be from the general



1 public and selected on the basis of their knowledge, interest,  
2 and proven expertise in, but not limited to, one or more of the  
3 following fields: finance, commerce and trade, corporate  
4 management, marketing, economics, engineering, and  
5 telecommunications, and other technology fields. ~~[The other~~  
6 ~~appointed member shall be selected from the faculty of the~~  
7 ~~University of Hawaii.]~~ All appointed members of the board shall  
8 continue in office until their respective successors have been  
9 appointed. The director of business, economic development, and  
10 tourism, the director of finance, ~~[an appointed member from the~~  
11 ~~board of the Hawaii strategic development corporation,~~ and ~~[an~~  
12 ~~appointed member from the board of the natural energy laboratory~~  
13 ~~of Hawaii authority,]~~ the chairperson of the board of  
14 agriculture, or their designated representatives, shall serve as  
15 ex officio~~[+]~~, ~~[+]~~ voting members of the board. The director of  
16 business, economic development, and tourism shall serve as the  
17 chairperson until such time as a chairperson is elected by the  
18 board from the membership. The board shall elect ~~[such]~~ other  
19 officers as it deems necessary."

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



1       "(a) The [~~development~~] corporation shall have all the  
2 powers necessary to carry out its purposes, including the powers  
3 to:

4       (1) Sue and be sued;

5       (2) Have a seal and alter the same at its pleasure;

6       (3) Make and execute, enter into, amend, supplement, and  
7 carry out contracts and all other instruments  
8 necessary or convenient for the exercise of its powers  
9 and functions under this chapter, including, with the  
10 approval of the governor, a project agreement, or an  
11 amendment or supplement to an existing project  
12 agreement, with a qualified person, and to enter into  
13 and carry out any agreement whereby the obligations of  
14 a qualified person under a project agreement shall be  
15 unconditionally guaranteed or insured by, or the  
16 performance thereof assigned to, or guaranteed or  
17 insured by, a person or persons other than the  
18 qualified person; and extend or renew any project  
19 agreement or any other agreement related thereto;  
20 provided that any such renewal or extension shall be  
21 subject to the approval of the governor unless made in



1           accordance with provisions for the extension or  
2           renewal contained in a project agreement or related  
3           agreement theretofore approved by the governor;

4           (4) Make and alter bylaws for its organization and  
5           internal management;

6           (5) Adopt rules under chapter 91 necessary to effectuate  
7           this chapter in connection with industrial parks,  
8           projects, multi-project programs, and the operations,  
9           properties, and facilities of the development  
10          corporation;

11          (6) Through its chief executive officer, appoint officers,  
12          agents, consultants, advisors, and employees,  
13          prescribe their duties and qualifications, and fix  
14          their salaries, without regard to chapter 76;

15          (7) Prepare or cause to be prepared development plans for  
16          industrial parks;

17          (8) Acquire, own, lease, hold, clear, improve, and  
18          rehabilitate real, personal, or mixed property and  
19          assign, exchange, transfer, convey, lease, sublease,  
20          or encumber any project, including by way of  
21          easements;



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



- 1       (13) Engage the services of consultants on a contractual  
2       basis for rendering professional and technical  
3       assistance and advice;
- 4       (14) Procure insurance against any loss in connection with  
5       its property and other assets and operations in  
6       amounts and from insurers as it deems desirable;
- 7       (15) Accept and expend gifts or grants in any form from any  
8       public agency or from any other source;
- 9       (16) Issue special purpose revenue bonds and refunding  
10      special purpose revenue bonds pursuant to and in  
11      accordance with this chapter in principal amounts as  
12      may be authorized from time to time by law to finance  
13      or refinance the cost of a project, singly or as part  
14      of a multi-project program, or an industrial park as  
15      authorized by law and provide for the security thereof  
16      as permitted by this chapter;
- 17      (17) Lend or otherwise apply the proceeds of the bonds  
18      issued for a project or an industrial park either  
19      directly or through a trustee to a qualified person  
20      for use and application by the qualified person in the  
21      acquisition, construction, improvement, installation,



1       equipping, or development of a project or industrial  
2       park, or agree with the qualified person whereby any  
3       of these activities shall be undertaken or supervised  
4       by that qualified person or by a person designated by  
5       the qualified person;

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

9       (A) Pledge, assign, hypothecate, or otherwise  
10       encumber all or any part of the revenues and  
11       receipts derived or to be derived by the  
12       [development] corporation under the project  
13       agreement for the project for which the bonds are  
14       issued;

15       (B) Pledge and assign the interest and rights of the  
16       [development] corporation under the project  
17       agreement or other agreement with respect to the  
18       project or the special purpose revenue bonds;

19       (C) Pledge and assign any bond, debenture, note, or  
20       other evidence of indebtedness received by the





- 1                   [development] corporation with respect to the  
2                   project; or
- 3                   (D) Any combination of the foregoing;
- 4       (19) With or without terminating a project agreement,  
5           exercise any and all rights provided by law for entry  
6           and reentry upon or take possession of a project at  
7           any time or from time to time upon breach or default  
8           by a qualified person under a project agreement,  
9           including any action at law or in equity for the  
10          purpose of effecting its rights of entry or reentry or  
11          obtaining possession of the project or for the  
12          payments of rentals, user taxes, or charges, or any  
13          other sum due and payable by the qualified person to  
14          the [development] corporation pursuant to the project  
15          agreement;
- 16       (20) Enter into arrangements with qualified county  
17           development entities whereby the board would provide  
18           financial support to qualified projects proposed;
- 19       (21) Create an environment in which to support technology  
20           economic development, including but not limited to:



- 1 (A) Supporting all aspects of technology-based  
2 economic development;  
3 (B) Developing instructive programs, identifying  
4 issues and impediments to the growth of  
5 technology industry in Hawaii; and  
6 (C) Providing policy analysis and information  
7 important to the development of technology  
8 industries in Hawaii;

9 (22) Develop programs that support start-up and existing  
10 technology companies in Hawaii and attract new  
11 companies to relocate to or establish operations in  
12 Hawaii by assessing the needs of these companies and  
13 providing the physical and technical infrastructure to  
14 support their operations;

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, technical and marketing assistance,  
5       support, and promotion to enterprises in which  
6       investments have been made;
- 7       (29) Acquire, hold, and sell qualified securities;
- 8       (30) Consent, subject to the provisions of any contract  
9       with noteholders or bondholders, whenever the  
10      corporation deems it necessary or desirable in the  
11      fulfillment of the purposes of this chapter, to the  
12      modification, with respect to rate of interest, time  
13      of payment of any installment of principal or  
14      interest, or any other terms, of any contract or  
15      agreement of any kind to which the corporation is a  
16      party;
- 17      (31) Invest any funds held in reserves or sinking funds, or  
18      any funds not required for immediate disbursement, in  
19      such investments as may be lawful for fiduciaries in  
20      the State; [and]



- 1        (32) Coordinate the corporation's programs with any  
2        education and training program;
- 3        (33) Carry out specialized programs designed to encourage  
4        the development of new products, businesses, and  
5        markets;
- 6        (34) Prepare, publish, and distribute such technical  
7        studies, reports, bulletins, and other materials as it  
8        deems appropriate, subject only to the maintenance and  
9        respect for confidentiality of client proprietary  
10       information;
- 11       (35) Organize, conduct, sponsor, or cooperate in and assist  
12       in the conduct of conferences, demonstrations, and  
13       studies relating to the stimulation and formation of  
14       businesses;
- 15       (36) Provide and pay for such advisory services and  
16       technical, managerial, and marketing assistance,  
17       support, and promotion as may be necessary or  
18       desirable to carry out the purposes of this chapter;
- 19       (37) Accept donations, grants, bequests, and devises of  
20       money, property, service, or other things of value  
21       that may be received from the United States or any



1 agency thereof, any governmental agency, or any public  
2 or private institution, person, firm, or corporation,  
3 to be held, used, or applied for any or all of the  
4 purposes specified in this chapter. Receipt of each  
5 donation or grant shall be detailed in the annual  
6 report of the corporation. The report shall include  
7 the identity of the donor or lender, the nature of the  
8 transaction, and any conditions attaching thereto;

9 (38) Acquire real property, or an interest therein, by  
10 purchase or foreclosure, where that acquisition is  
11 necessary or appropriate to protect or secure any  
12 investment or loan in which the corporation has an  
13 interest; sell, transfer, and convey the property to a  
14 buyer and if the sale, transfer, or conveyance cannot  
15 be effected with reasonable promptness or at a  
16 reasonable price, to lease the property to a tenant;

17 (39) Acquire, own, hold, dispose of, and encumber personal  
18 property of any nature, or any interest therein;

19 (40) Enter into agreements or other transactions with any  
20 federal, state, or county agency;



(41) Appear in its own behalf before state, county, or  
federal agencies;

(42) Appoint advisory committees as deemed necessary; and

~~[(32)]~~ (43) Do any and all things necessary or convenient to carry out its purposes and exercise the powers given and granted in this chapter."

## PART III

SECTION 8. Section 26-18, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

"(b) The following are placed in the department of business, economic development, and tourism for administrative purposes as defined by section 26-35: Hawaii community development authority, Hawaii housing finance and development corporation, Hawaii innovation and technology [~~development~~] corporation, land use commission, natural energy laboratory of Hawaii authority, and any other boards and commissions as shall be provided by law."

SECTION 9. Section 171-2, Hawaii Revised Statutes, is amended to read as follows:

"§171-2 Definition of public lands. "Public lands" means all lands or interest therein in the State classed as government



1 or crown lands previous to August 15, 1895, or acquired or  
2 reserved by the government upon or subsequent to that date by  
3 purchase, exchange, escheat, or the exercise of the right of  
4 eminent domain, or in any other manner; including lands accreted  
5 after May 20, 2003, and not otherwise awarded, submerged lands,  
6 and lands beneath tidal waters that are suitable for  
7 reclamation, together with reclaimed lands that have been given  
8 the status of public lands under this chapter, except:

9 (1) Lands designated in section 203 of the Hawaiian Homes  
10 Commission Act, 1920, as amended;

11 (2) Lands set aside pursuant to law for the use of the  
12 United States;

13 (3) Lands being used for roads and streets;

14 (4) Lands to which the United States relinquished the  
15 absolute fee and ownership under section 91 of the  
16 Hawaiian Organic Act prior to the admission of Hawaii  
17 as a state of the United States unless subsequently  
18 placed under the control of the board of land and  
19 natural resources and given the status of public lands  
20 in accordance with the state constitution, the





1 Hawaiian Homes Commission Act, 1920, as amended, or  
2 other laws;

3 (5) Lands to which the University of Hawaii holds title;

4 (6) Lands to which the Hawaii housing finance and  
5 development corporation in its corporate capacity  
6 holds title;

7 (7) Lands to which the Hawaii community development  
8 authority in its corporate capacity holds title;

9 (8) Lands to which the department of agriculture holds  
10 title by way of foreclosure, voluntary surrender, or  
11 otherwise, to recover moneys loaned or to recover  
12 debts otherwise owed the department under chapter 167;

13 (9) Lands that are set aside by the governor to the Aloha  
14 Tower development corporation; lands leased to the  
15 Aloha Tower development corporation by any department  
16 or agency of the State; or lands to which the Aloha  
17 Tower development corporation holds title in its  
18 corporate capacity;

19 (10) Lands that are set aside by the governor to the  
20 agribusiness development corporation; lands leased to  
21 the agribusiness development corporation by any



1 department or agency of the State; or lands to which  
2 the agribusiness development corporation in its  
3 corporate capacity holds title;

4 (11) Lands to which the Hawaii innovation and technology  
5 [~~development~~] corporation in its corporate capacity  
6 holds title; and

7 (12) Lands to which the department of education holds  
8 title;

9 provided that, except as otherwise limited under federal law and  
10 except for state land used as an airport as defined in section  
11 262-1, public lands shall include the air rights over any  
12 portion of state land upon which a county mass transit project  
13 is developed after July 11, 2005."

14 SECTION 10. Section 171-64.7, Hawaii Revised Statutes, is  
15 amended by amending subsection (a) to read as follows:

16 "(a) This section applies to all lands or interest therein  
17 owned or under the control of state departments and agencies  
18 classed as government or crown lands previous to August 15,  
19 1895, or acquired or reserved by the government upon or  
20 subsequent to that date by purchase, exchange, escheat, or the  
21 exercise of the right of eminent domain, or any other manner,



1 including accreted lands not otherwise awarded, submerged lands,  
2 and lands beneath tidal waters that are suitable for  
3 reclamation, together with reclaimed lands that have been given  
4 the status of public lands under this chapter, including:

- 5 (1) Land set aside pursuant to law for the use of the  
6 United States;
- 7 (2) Land to which the United States relinquished the  
8 absolute fee and ownership under section 91 of the  
9 Organic Act prior to the admission of Hawaii as a  
10 state of the United States;
- 11 (3) Land to which the University of Hawaii holds title;
- 12 (4) Land to which the Hawaii housing finance and  
13 development corporation in its corporate capacity  
14 holds title;
- 15 (5) Land to which the department of agriculture holds  
16 title by way of foreclosure, voluntary surrender, or  
17 otherwise, to recover moneys loaned or to recover  
18 debts otherwise owed the department under chapter 167;
- 19 (6) Land that is set aside by the governor to the Aloha  
20 Tower development corporation; or land to which the



1 Aloha Tower development corporation holds title in its  
2 corporate capacity;

3 (7) Land that is set aside by the governor to the  
4 agribusiness development corporation; or land to which  
5 the agribusiness development corporation in its  
6 corporate capacity holds title;

7 (8) Land to which the Hawaii innovation and technology  
8 [~~development~~] corporation in its corporate capacity  
9 holds title; and

10 (9) Land to which the department of education holds  
11 title."

12 SECTION 11. Section 210-7, Hawaii Revised Statutes, is  
13 amended by amending subsection (b) to read as follows:

14 "(b) Subject to the availability of funds, a request from  
15 the Hawaii innovation and technology [~~development~~] corporation  
16 for a transfer of funds to supplement appropriations for small  
17 business innovation research grants shall be granted  
18 expeditiously. If available funds are inadequate for a transfer  
19 to the [~~development~~] corporation, the director shall advise the  
20 [~~development~~] corporation that a transfer will be made when



1 sufficient funds are [~~available in the Hawaii capital loan~~  
2 ~~revolving fund~~]."

3 SECTION 12. Section 227D-2, Hawaii Revised Statutes, is  
4 amended by amending subsection (b) to read as follows:

5 "(b) The governing body of the authority shall consist of  
6 a board of directors having [~~thirteen~~] twelve voting members.  
7 Three members from the general public shall be appointed by the  
8 governor for staggered terms pursuant to section 26-34, except  
9 that one of these members shall be a resident of the county of  
10 Hawaii. The members shall be selected on the basis of their  
11 knowledge, interest, and proven expertise in, but not limited  
12 to, one or more of the following fields: finance, commerce and  
13 trade, corporate management, marketing, economics, engineering,  
14 energy management, real estate development, property management,  
15 aquaculture, and ocean science. The chairperson and secretary  
16 of the research advisory committee shall serve on the board.  
17 The director of business, economic development, and tourism, the  
18 chairperson of the board of land and natural resources, the  
19 president of the University of Hawaii, the mayor of the county  
20 of Hawaii, [~~an appointed member from the board of the Hawaii~~  
21 ~~technology development corporation,~~] and an appointed member



1 from the board of the Hawaii [~~strategic development~~] innovation  
2 and technology corporation, or their designated representatives,  
3 shall serve as ex officio, voting members of the board. The  
4 tenants of the authority shall elect two members to the board  
5 from among the tenants of the authority, of which one member  
6 shall serve a two-year term, and one member shall serve a four-  
7 year term. In electing the tenant members, each tenant shall be  
8 entitled to cast one vote for each member position. The tenant  
9 members shall be recused from voting on setting lease rents,  
10 water rates, or utility rates, but may participate in  
11 discussions. The director of business, economic development,  
12 and tourism shall serve as the chairperson until such time as a  
13 chairperson is elected by the board from the membership. The  
14 board shall elect other officers as it deems necessary."

15 SECTION 13. Section 304A-1959, Hawaii Revised Statutes, is  
16 amended to read as follows:

17 "§304A-1959 Biennial report. No later than twenty days  
18 prior to the convening of the regular session of each odd-  
19 numbered year, the University of Hawaii shall submit a report to  
20 the legislature concerning:



- 1       (1) All funds deposited into the university innovation and  
2       commercialization initiative special fund and a  
3       detailed description of the use of those funds; and  
4       (2) Coordinated efforts between the innovation and  
5       commercialization initiative program and other state  
6       agencies, including the Hawaii innovation and  
7       technology [~~development~~] corporation[, ~~the Hawaii~~  
8       ~~strategic development corporation,~~] and the Hawaii  
9       state energy office, to move the State's innovation  
10      goals forward, and to more efficiently and effectively  
11      utilize resources to achieve these outcomes."

12      SECTION 14. Section 304A-3101, Hawaii Revised Statutes, is  
13      amended by amending subsection (b) to read as follows:

14      "(b) The center shall assist the State's Hawaii innovation  
15      and technology [~~development~~] corporation in its efforts, shall  
16      promote educational, scientific, technological, and literary  
17      pursuits in the area of high technology, and shall provide  
18      support for the high technology industry in Hawaii in the  
19      following manner:



- 1           (1) By fostering scientific and technological interchange  
2           between students and scholars of the United States and  
3           other nations;
- 4           (2) By encouraging, initiating, aiding, developing, and  
5           conducting scientific investigations and research in  
6           high technology;
- 7           (3) By encouraging and aiding in the education and  
8           training of persons from the United States and other  
9           nations for the conduct of such investigations,  
10          research, and study;
- 11          (4) By assisting in the dissemination of knowledge by  
12          establishing, aiding, and maintaining professorships  
13          or other staff positions, fellowships, scholarships,  
14          publications, and lectures;
- 15          (5) By other means to make the benefits of investigations,  
16          research, and study available to the public; and
- 17          (6) By any and all other acts reasonably designed to  
18          further the above purposes in the interest of  
19          promoting the general welfare of the people of the  
20          State and the mutual understanding between the United  
21          States and other nations."





1       SECTION 15. Section 394-8, Hawaii Revised Statutes, is  
2 amended by amending subsection (b) to read as follows:

3       "(b) The department shall utilize the resources of the  
4 University of Hawaii, including the community college system,  
5 the Hawaii innovation and technology [~~development~~] corporation,  
6 and other educational and training resources in the public and  
7 private sectors throughout the State as may be appropriate to be  
8 used to provide preemployment or employment training or on-the-  
9 job training for local residents hired by businesses relocating  
10 to Hawaii or expanding their local operations. Training may  
11 include but not be limited to training in entrepreneurship,  
12 capital formation, start-up, and business plans. The department  
13 may contract for these training needs from public agencies  
14 including the various University of Hawaii campuses, private  
15 educational institutions, nonprofit corporations, or private  
16 entities in order to provide the required training."

17                               PART IV

18       SECTION 16. All rights, powers, functions, and duties of  
19 the Hawaii technology development corporation are transferred to  
20 the Hawaii innovation and technology corporation.



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

15 Any employee who, prior to this Act, is exempt from civil  
16 service and is transferred as a consequence of this Act may  
17 retain the employee's exempt status, but shall not be appointed  
18 to a civil service position as a consequence of this Act. An  
19 exempt employee who is transferred by this Act shall not suffer  
20 any loss of prior service credit, vacation or sick leave credits  
21 previously earned, or other employee benefits or privileges as a



1 consequence of this Act; provided that the employees possess  
2 legal and public employment requirements for the position to  
3 which transferred or appointed, as applicable; provided further  
4 that subsequent changes in status may be made pursuant to  
5 applicable employment and compensation laws. The chief  
6 executive officer may prescribe the duties and qualifications of  
7 these employees and fix their salaries without regard to chapter  
8 76, Hawaii Revised Statutes.

9 SECTION 17. All appropriations, records, equipment,  
10 machines, files, supplies, contracts, books, papers, documents,  
11 maps, and other personal property heretofore made, used,  
12 acquired, or held by the Hawaii technology development  
13 corporation relating to the functions transferred to the Hawaii  
14 innovation and technology corporation shall be transferred with  
15 the functions to which they relate.

16 SECTION 18. All rules, policies, procedures, guidelines,  
17 and other materials adopted or developed by the Hawaii  
18 technology development corporation to implement provisions of  
19 the Hawaii Revised Statutes, which are made applicable to the  
20 Hawaii innovation and technology corporation by this Act, shall  
21 remain in full force and effect until amended or repealed by the



1 department of business, economic development and tourism  
2 pursuant to chapter 91, Hawaii Revised Statutes. In the  
3 interim, every reference to the Hawaii technology development  
4 corporation in those rules, policies, procedures, guidelines,  
5 and other material is amended to refer to the Hawaii innovation  
6 and technology corporation as appropriate.

7 SECTION 19. All deeds, leases, contracts, loans,  
8 agreements, permits, or other documents executed or entered into  
9 by or on behalf of the Hawaii technology development corporation  
10 pursuant to the provisions of the Hawaii Revised Statutes, which  
11 are made applicable to the Hawaii innovation and technology  
12 corporation by this Act, shall remain in full force and effect.  
13 Upon the effective date of this Act, every reference to the  
14 Hawaii technology development corporation therein shall be  
15 construed as a reference to the Hawaii innovation and technology  
16 corporation as appropriate.

17 PART V

18 SECTION 20. Chapter 211F, Hawaii Revised Statutes, is  
19 repealed.



1       SECTION 21. All rights, powers, functions, and duties of  
2 the Hawaii strategic development corporation are transferred to  
3 the Hawaii innovation and technology corporation.

4       All employees who occupy civil service positions and whose  
5 functions are transferred to the Hawaii innovation and  
6 technology corporation by this Act shall retain their civil  
7 service status, whether permanent or temporary. Employees shall  
8 be transferred without loss of salary, seniority (except as  
9 prescribed by applicable collective bargaining agreements),  
10 retention points, prior service credit, any vacation and sick  
11 leave credits previously earned, and other rights, benefits, and  
12 privileges, in accordance with state personnel laws and this  
13 Act; provided that the employees possess the minimum  
14 qualifications and public employment requirements for the class  
15 or position to which transferred or appointed, as applicable;  
16 provided further that subsequent changes in status may be made  
17 pursuant to applicable 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 chief  
9 executive officer may prescribe the duties and qualifications of  
10 these employees and fix their salaries without regard to chapter  
11 76, Hawaii Revised Statutes.

12 SECTION 22. All appropriations, records, equipment,  
13 machines, files, supplies, contracts, books, papers, documents,  
14 maps, and other personal property heretofore made, used,  
15 acquired, or held by the Hawaii strategic development  
16 corporation relating to the functions transferred to the Hawaii  
17 innovation and technology corporation shall be transferred with  
18 the functions to which they relate.

19 SECTION 23. All rules, policies, procedures, guidelines,  
20 and other materials adopted or developed by the Hawaii strategic  
21 development corporation to implement provisions of the Hawaii



1 Revised Statutes, which are made applicable to the Hawaii  
2 innovation and technology corporation by this Act, shall remain  
3 in full force and effect until amended or repealed by the  
4 department of business, economic development, and tourism  
5 pursuant to chapter 91, Hawaii Revised Statutes. In the  
6 interim, every reference to the Hawaii strategic development  
7 corporation in those rules, policies, procedures, guidelines,  
8 and other material is amended to refer to the Hawaii innovation  
9 and technology corporation as appropriate.

10 SECTION 24. All deeds, leases, contracts, loans,  
11 agreements, permits, or other documents executed or entered into  
12 by or on behalf of the Hawaii strategic development corporation  
13 pursuant to the provisions of the Hawaii Revised Statutes, which  
14 are made applicable to the Hawaii innovation and technology  
15 corporation by this Act, shall remain in full force and effect.  
16 Upon the effective date of this Act, every reference to the  
17 Hawaii strategic development corporation therein shall be  
18 construed as a reference to the Hawaii innovation and technology  
19 corporation as appropriate.

20 PART VI



1       SECTION 25. Any unencumbered balances remaining in the  
2 technology special fund as of July 1, 2019, shall lapse to the  
3 credit of the general fund.

4       SECTION 26. There is established in the Hawaii innovation  
5 and technology corporation 1.50 full-time equivalent permanent  
6 positions and 6.25 full-time equivalent temporary positions.

7       SECTION 27. There is appropriated out of the general  
8 revenues of the State of Hawaii the sum of \$               or so  
9 much thereof as may be necessary for fiscal year 2019-2020 for  
10 personal services to convert 1.50 permanent positions and 6.25  
11 temporary positions in the Hawaii technology development  
12 corporation (BED143/TE) to the Hawaii innovation and technology  
13 corporation and to convert the means of financing from special  
14 funds to general funds.

15       The sum appropriated shall be expended by the Hawaii  
16 innovation and technology corporation for the purposes of this  
17 Act.

18       SECTION 28. There is appropriated out of the general  
19 revenues of the State of Hawaii the sum of \$720,000 or so much  
20 thereof as may be necessary for fiscal year 2019-2020 and the





1 same sum or so much thereof as may be necessary for fiscal year  
2 2020-2021 to be expended as follows:

3 (1) \$90,000 for one permanent full-time technology park  
4 coordinator position (1.0 FTE); and

5 (2) \$630,000 for a first responders technology park proof  
6 of concept.

7 The sums appropriated shall be expended by the Hawaii  
8 innovation and technology corporation for the purposes of this  
9 Act.

10 **PART VII**

11 SECTION 29. On July 1, 2020, the terms of the board  
12 members of the Hawaii strategic development corporation shall  
13 expire.

14 SECTION 30. If any provision of this Act, or the  
15 application thereof to any person or circumstance, is held  
16 invalid, the invalidity does not affect other provisions or  
17 applications of the Act that can be given effect without the  
18 invalid provision or application, and to this end the provisions  
19 of this Act are severable.

20 SECTION 31. The revisor of statutes shall replace the term  
21 "development corporation" with "corporation" as that term is



1 used in chapter 206M, Hawaii Revised Statutes, unless otherwise  
2 specified under this Act.



3 SECTION 32. In codifying the new sections added by section  
4 2 of this Act, the revisor of statutes shall substitute  
5 appropriate section numbers for the letters used in designating  
6 the new sections in this Act.

7 SECTION 33. Statutory material to be repealed is bracketed  
8 and stricken. New statutory material is underscored.

9 SECTION 34. This Act shall take effect on July 1, 2021;  
10 provided that part VI shall take effect on July 1, 2019.

11

INTRODUCED BY: \_\_\_\_\_

  
  
Michelle Adams  
4.16.19. JLR



# S.B. NO. 1365

**Report Title:**

Hawaii Innovation and Technology Corporation; Hawaii Technology Development Corporation; Hawaii Strategic Development Corporation; Department of Business, Economic Development and Tourism; Appropriations

**Description:**

Merges the Hawaii Strategic Development Corporation into the Hawaii Technology Development Corporation and renames the resulting entity as the Hawaii Innovation and Technology Corporation. Appropriates funds.

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

