
A BILL FOR AN ACT

RELATING TO STATE DEPARTMENTS.

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

1 SECTION 1. The purpose of this Act is to reorganize
2 certain state executive branch departments to reflect the
3 provisions of the General Appropriations Act of 2009. More
4 specifically, this Act accomplishes the following:

5 (1) Transfers the research and economic analysis division
6 to the department of commerce and consumer affairs
7 from the department of business, economic development,
8 and tourism;

9 (2) Transfers the creative media division to the
10 foundation on culture and the arts from the department
11 of business, economic development, and tourism;

12 (3) Transfers the special advisor for tourism to the
13 office of the governor from the department of
14 business, economic development, and tourism;

15 (4) Transfers the small business regulatory review board
16 to the department of commerce and consumer affairs

1 from the department of business, economic development,
2 and tourism;

3 (5) Transfers the Hawaii housing finance and development
4 corporation to the department of human services from
5 the department of business, economic development, and
6 tourism;

7 (6) Transfers the land use commission to the department of
8 land and natural resources from the department of
9 business, economic development, and tourism;

10 (7) Transfers the Hawaii community development authority
11 to the department of land and natural resources from
12 the department of business, economic development, and
13 tourism;

14 (8) Transfers the Aloha tower development corporation to
15 the department of transportation from the department
16 of business, economic development, and tourism;

17 (9) Transfers the high technology development corporation
18 and high technology innovation corporation to the
19 department of commerce and consumer affairs from the
20 department of business, economic development, and
21 tourism;

1 "Division" means the research and economic analysis
2 division.

3 § -3 **Funding of division.** The expenses of the division
4 shall be funded entirely from the compliance resolution fund;
5 provided that this provision shall not require the expenses of
6 the division to be exclusively funded from the fees, grants, or
7 other revenues collected by the division. The director may
8 include as part of any other fee charged by the department to a
9 person or organization an amount with a reasonable nexus to the
10 economic research and analysis activities of the division.

11 For the purpose of this section, "expenses" includes
12 operating expenses, cash capital expenses, and debt service
13 attributable to the division.

14 § -4 **General duties of the division.** The division
15 shall:

- 16 (1) Provide plans, analyses, and policy recommendations on
17 economic issues;
- 18 (2) Conduct and report on basic research into Hawaii's
19 economy;
- 20 (3) Collect, compile, interpret, and publish data and
21 statistics on aspects of business activity, the
22 economy, and demographic characteristics of the State;

1 (4) Develop and maintain a statewide statistical reporting
2 system;

3 (5) Assist state agencies in developing and analyzing
4 plans and objectives for the development of Hawaii's
5 economy, criteria to measure the accomplishment of the
6 objectives, programs through which the objectives are
7 to be attained, and financial requirements to
8 accomplish the objectives;

9 (6) Analyze plans for future projects for the development
10 of Hawaii's economy;

11 (7) Assist state agencies in the coordination of research
12 and information gathering and analysis activities;

13 (8) Coordinate the conduct of research with and
14 dissemination of information to the federal
15 government, Hawaii's county governments, other state
16 governments, and foreign governments for the
17 development of Hawaii's economy; and

18 (9) Develop programs to encourage private and public
19 research projects which will result in the development
20 of Hawaii's economy.

21 **§ -5 Specific research duties of the division.** The
22 division shall:

- 1 (1) Maintain a program of research and statistics for the
- 2 purpose of:
- 3 (A) Measuring and analyzing tourism trends;
- 4 (B) Providing information and research to assist in
- 5 the development and implementation of state
- 6 tourism policy;
- 7 (C) Encouraging and arranging for the conduct of
- 8 tourism research and information development
- 9 through voluntary means or through contractual
- 10 services with qualified agencies, firms, or
- 11 persons; and
- 12 (D) Providing tourism information to policy makers,
- 13 the public, and the visitor industry;
- 14 (E) Collecting and publishing:
- 15 (i) Visitor-related data, including visitor
- 16 arrivals, visitor characteristics and
- 17 expenditures;
- 18 (ii) Hotel-related statistics, including the
- 19 number of units available, occupancy rates,
- 20 and room rates;
- 21 (iii) Airline-related data, including seat
- 22 capacity and number of flights;

1 (F) Collecting information and conducting analyses of
2 the economic, social, and physical impacts of
3 tourism on the State;

4 (G) Conducting periodic studies of the impact of
5 ongoing marketing programs of the Hawaii tourism
6 authority on Hawaii's tourism industry,
7 employment in Hawaii, state taxes, and the
8 State's lesser known and underutilized
9 destinations; and

10 (H) Cooperating with the Hawaii tourism authority and
11 providing it with the information collected under
12 this subparagraph in a timely manner;

13 (2) Measure and analyze new economic development trends
14 within growth industries such as:

15 (A) Ocean sciences and technology;

16 (B) Biotechnology and life sciences;

17 (C) Astronomy;

18 (D) Technology and information services;

19 (E) Film and creative media;

20 (F) Diversified agriculture;

21 (G) Aquaculture; and

22 (H) Specialty tourism;

- 1 (3) Provide economic information to policy makers,
2 businesses, and the public for use in setting
3 policies, objectives, and goals. This duty shall
4 include collecting, analyzing, and publishing
5 available data relating to the following:
- 6 (A) Economic diversification, innovation, and
7 enterprise;
- 8 (B) The technology sector of the State, technology
9 change in the economy, and technology-based
10 workforce;
- 11 (C) The dollar value of research and development
12 conducted at or in association with the
13 University of Hawaii;
- 14 (D) Global connections, including diversification of
15 export and visitor markets, foreign business
16 travel, and manufacturing of export products; and
- 17 (E) Venture capital investments in Hawaii, including
18 the size of local venture investments and their
19 annual growth.
- 20 (4) Establish and update biennially a self-sufficiency
21 standard that incorporates existing methods of
22 calculation and reflects, at a minimum, costs relating

1 to housing, food, child care, transportation, health
2 care, clothing and household expenses, federal and
3 state tax obligations, family size, children's ages,
4 geography, and the number of household wage earners.

5 The division shall submit a report to the legislature
6 on the self-sufficiency standard no later than twenty
7 days prior to the convening of the regular session of
8 2011 and every odd-numbered year thereafter. The
9 recommendations shall address, among other things, the
10 utilization of any federal funding that may be
11 available for the purposes of establishing and
12 updating the self-sufficiency standard.

13 **§ -6 Data or information collection.** (a) The division,
14 in consultation with affected public agencies, shall assess the
15 need for statistics and other information as to the number,
16 characteristics, needs, and movement of people into, out of, or
17 within Hawaii, including residents, migrants, and visitors, and
18 such other information as the director may deem necessary for
19 the purposes of sound economic research and analysis. The
20 division shall be responsible for collecting, analyzing, and
21 disseminating such information to public agencies on a timely
22 basis and may use any appropriate method to collect the

1 information, including conducting an entry and exit census or
2 survey of all individuals entering, leaving, or living within
3 the State and obtaining data or information acquired by other
4 public and private agencies.

5 (b) To the extent that it is identifiable to an
6 individual, information obtained by the division or its agents
7 through surveys, questionnaires, or other information gathering
8 efforts shall be held confidential and not disclosed or opened
9 to public inspection, except that such information may be shared
10 with other public agencies as provided in section 92F-19.

11 (c) Public disclosure of information gathered by the
12 department may place businesses at a competitive disadvantage.
13 Consequently, where disclosure would result in the impairment of
14 the division's ability to obtain such information and the
15 frustration of a legitimate government function, the division
16 may withhold from public disclosure competitively sensitive
17 information including:

- 18 (1) Completed survey and questionnaire forms;
- 19 (2) Coding sheets; and
- 20 (3) Database records of such information.

1 (d) The division shall operate a research library that
2 makes available to public agencies and the general public the
3 non-confidential information collected by the division.

4 § -7 **Statistical boundaries.** The division may
5 establish, modify, or abolish statistical boundaries for cities,
6 towns, or villages in the State and publish an up-to-date list
7 of cities, towns, and villages after changes to statistical
8 boundaries have been made.

9 § -8 **Contracts.** (a) The division may contract with
10 qualified public agencies and private persons in pursuit of its
11 duties; provided that preferences shall be given to qualified
12 offerors or bidders:

- 13 (1) Doing business or residing in the State; and
14 (2) Agreeing to match division funds with the offerors' or
15 bidders' funds, equipment, materials, or services.

16 (b) All contracts shall be approved in writing by the
17 director and shall specify the name of the contractor, the
18 nature of the work to be performed, the manner in which funds
19 may be expended, and such data as the director may require.

20 § -9 **Reports.** (a) Through the director, the division
21 shall file, before the convening of each regular session of the

1 legislature, a report of its activities for the preceding fiscal
2 year with the governor and legislature.

3 (b) Upon the written request of the director, any state
4 executive agency engaged in activities relating to economic
5 development shall supply to the division such reports on those
6 activities as the director deems necessary to effectuate its
7 functions.

8 § -10 Fees. (a) The director may establish and charge
9 fees for services and documents of the division; provided that
10 no such fees shall be charged to any state executive agency, the
11 legislature, or the judiciary.

12 (b) All proceeds of the fees shall be deposited into the
13 compliance resolution fund.

14 § -11 Rules. The director may adopt rules in accordance
15 with chapter 91 for the purposes of this part."

16 SECTION 4. Section 201-9, Hawaii Revised Statutes, is
17 repealed.

18 [~~"§201-9 Cooperation with other agencies; acceptance and~~
19 ~~spending of grants; dissemination of findings.~~ The department
20 of business, economic development, and tourism shall seek the
21 widest possible cooperation, under law, with public and private
22 agencies and the federal government in achieving the purpose of

1 ~~this part. It may accept funds from individuals and other~~
2 ~~agencies, public and private, and agree to such lawful and~~
3 ~~reasonable conditions and terms as the donor of funds may~~
4 ~~require, all toward the end of furthering the purposes of this~~
5 ~~part. The funds may be expended by the department on vouchers~~
6 ~~approved by its director, or may be transferred to other state~~
7 ~~agencies for expenditure by them in effectuating the purposes of~~
8 ~~this part.~~

9 ~~To the end of stimulating cooperation toward the economic~~
10 ~~development of Hawaii and of disseminating useful information~~
11 ~~which it obtains, the department shall from time to time publish~~
12 ~~the results of its research, its findings, and~~
13 ~~recommendations."]~~

14 SECTION 5. Section 201-13.8, Hawaii Revised Statutes, is
15 repealed.

16 [~~"§201-13.8 Data or information collection. (a) The~~
17 ~~director, in consultation with all affected governmental~~
18 ~~agencies, shall assess the need for statistics and other~~
19 ~~information as to the number, characteristics, needs, and~~
20 ~~movement of people into, out of, or within Hawaii, including~~
21 ~~residents, migrants, and visitors, and such other information as~~
22 ~~the director may deem necessary, for the purposes of sound~~

1 ~~economic research and analysis. The director shall be~~
2 ~~responsible for collecting, analyzing, and disseminating such~~
3 ~~information to governmental agencies on a timely basis, and is~~
4 ~~authorized to use any appropriate method to collect the~~
5 ~~information, including but not limited to conducting an entry~~
6 ~~and exit census or survey of all individuals entering, leaving,~~
7 ~~or living within the State, and obtaining data or information~~
8 ~~acquired by other agencies, both public and private. All~~
9 ~~governmental agencies shall cooperate with and assist the~~
10 ~~director to implement this section.~~

11 ~~(b) To the extent that it is identifiable to an~~
12 ~~individual, information obtained by the department or its agents~~
13 ~~through surveys, questionnaires, or other information gathering~~
14 ~~efforts shall be held confidential and not disclosed or opened~~
15 ~~to public inspection, except that such information may be shared~~
16 ~~with other government agencies as provided in section 92F-19.~~

17 ~~(c) Public disclosure of information gathered by the~~
18 ~~department could place businesses at a competitive disadvantage.~~
19 ~~Consequently, where disclosure would result in the impairment of~~
20 ~~the department's ability to obtain such information and the~~
21 ~~frustration of a legitimate government function, the department~~

1 ~~may withhold from public disclosure competitively sensitive~~
2 ~~information including:~~

- 3 ~~(1) Completed survey and questionnaire forms;~~
- 4 ~~(2) Coding sheets; and~~
- 5 ~~(3) Database records of such information.~~
- 6 ~~(d) The director may adopt necessary rules pursuant to~~
7 ~~chapter 91, to administer this section."]~~

8 SECTION 6. Section 201-19, Hawaii Revised Statutes, is
9 repealed.

10 ~~["~~§201-19~~ **Research and statistics for growth industries.**~~

11 ~~(a) The department shall maintain a program for the purpose of:~~

- 12 ~~(1) Measuring and analyzing new economic development~~
13 ~~trends within growth industries such as:~~
 - 14 ~~(A) Ocean sciences and technology;~~
 - 15 ~~(B) Biotechnology and life sciences;~~
 - 16 ~~(C) Astronomy;~~
 - 17 ~~(D) Technology and information services;~~
 - 18 ~~(E) Film and creative media;~~
 - 19 ~~(F) Diversified agriculture;~~
 - 20 ~~(G) Aquaculture; and~~
 - 21 ~~(H) Specialty tourism;~~

- 1 ~~(2) Providing economic information to policy makers, the~~
2 ~~public, and the various growth industries under~~
3 ~~paragraph (1) for use in setting policies, objectives,~~
4 ~~and goals. This includes collecting, analyzing, and~~
5 ~~publishing available data on an annual basis relating~~
6 ~~but not limited to:~~
- 7 ~~(A) Economic diversification, income and income~~
8 ~~distribution, and issues and measures of the~~
9 ~~State's natural resources in relation to state~~
10 ~~sustainable economy goals;~~
- 11 ~~(B) The technology sector of the State, including but~~
12 ~~not limited to defining the sector, estimating~~
13 ~~employment, and compiling available information~~
14 ~~on patents registered in Hawaii;~~
- 15 ~~(C) Technology change in the economy, including but~~
16 ~~not limited to technical jobs outside the~~
17 ~~technology sector, and the changing applications~~
18 ~~of technology in the private economy and~~
19 ~~government;~~
- 20 ~~(D) The technology-based workforce, including but not~~
21 ~~limited to management, technical, and~~

1 ~~professional jobs, and technology education and~~
2 ~~training;~~

3 ~~(E) Innovation and enterprise, including but not~~
4 ~~limited to available information on startup~~
5 ~~companies, venture capital investment, private~~
6 ~~and government research and development~~
7 ~~activities, small business innovation research~~
8 ~~grants, and technology licensing;~~

9 ~~(F) The dollar value of research and development~~
10 ~~conducted at, or in association with, the~~
11 ~~University of Hawaii;~~

12 ~~(G) Global connections, including but not limited to~~
13 ~~diversification of export and visitor markets,~~
14 ~~foreign business travel, and the manufacturing of~~
15 ~~export products; and~~

16 ~~(H) Venture capital investments in Hawaii, including~~
17 ~~but not limited to the size of local venture~~
18 ~~investments and their annual growth.~~

19 ~~(b) The department shall submit to the legislature no~~
20 ~~later than twenty days prior to the convening of each regular~~
21 ~~legislative session, a written performance report on the impact~~
22 ~~of activities of the department and attached agencies that~~

1 ~~demonstrate their efforts to support, promote, and facilitate~~
2 ~~the expansion and long-term viability of emerging growth~~
3 ~~industries including those identified in subsection (a)(1)."]~~

4 PART II.

5 CREATIVE MEDIA DIVISION

6 TRANSFER TO FOUNDATION ON CULTURE AND THE ARTS

7 SECTION 7. The purpose of this part is to effectuate the
8 transfer of the creative media division, with its statutory
9 duties, from the department of business, economic development,
10 and tourism to the foundation on culture and the arts.

11 SECTION 8. Chapter 9, Hawaii Revised Statutes, is amended
12 by adding two new parts to be designated and to read as follows:

13 **"PART . CREATIVE MEDIA DIVISION**

14 **§9-A Creative media division; established.** There is
15 established the creative media division under the foundation on
16 culture and the arts. Under the direction and supervision of
17 the executive director of the foundation, the division shall
18 perform the duties established under this chapter and any other
19 law.

20 **§9-B Definitions.** In addition to the definitions under
21 section 9-1, "division" means the creative media division for
22 the purpose of this part.

1 **§9-C General duties of division.** The division shall
2 promote the growth of and work as an advocate for the film,
3 television, and digital media production industry in Hawaii, the
4 artistic and cultural resources of Hawaii, and the products that
5 are made in Hawaii. The division shall support and implement
6 programs, projects, and activities that result in:

- 7 (1) An internationally recognized and self-sustaining
8 film, television, and digital arts industry;
- 9 (2) An arts and culture industry that is a vibrant and
10 sustainable sector of Hawaii's economy; and
- 11 (3) An expansion of domestic and foreign markets for
12 Hawaii's products. In the performance of this duty,
13 the division shall cooperate and coordinate with the
14 department of agriculture.

15 **§9-D Consolidated film and television production permit**
16 **processing.** (a) The division shall consult with state and
17 county agencies in order to identify sites that may be used for
18 making visually recorded productions under terms and conditions
19 as may be determined by the state or county agency having
20 jurisdiction over the sites.

21 (b) The division may accept an application from any person
22 who proposes to make a motion picture, television show,

1 television commercial, or other visually recorded production at
2 one or more sites on state or county lands, whether or not set
3 aside under section 171-11.

4 (c) The applicant shall identify the sites to be covered
5 by the permit and provide other information as may be required
6 by the division.

7 (d) The division may approve and issue a permit to film at
8 any of the sites identified by the appropriate state or county
9 agency under subsection (a). If any site requested for use by
10 the applicant is not identified under subsection (a), the
11 division shall consult with the appropriate state or county
12 agency having jurisdiction over the site to obtain a permit. If
13 the matter of a permit cannot be resolved in this manner, the
14 division shall refer the application to the appropriate state or
15 county agency to obtain a permit.

16 (e) The division may make changes to and extensions of any
17 approved permits so long as the changes and extensions do not
18 conflict with the policies, terms, and conditions set forth by
19 the agency having jurisdiction over the site in question.

20 (f) The division may establish memoranda of agreement or
21 adopt rules to implement the intent and purposes of this
22 section.

1 (g) Nothing in this section shall be construed as waiving
2 the authority of any county or the state department of
3 transportation to require a person to obtain a permit from the
4 county or department where the production takes place on or from
5 a public highway.

6 (h) A vessel engaged in temporary use for film production
7 purposes in accordance with a film permit issued by the division
8 shall not be considered to be a "commercial vessel" within the
9 meaning of section 200-9, 200-10, or 200-39; provided that:

10 (1) The period of temporary use does not exceed fourteen
11 hours per day, five days per week, excluding weekends,
12 and for a period not to exceed thirty calendar days;
13 and

14 (2) The division may make allowances to include weekends
15 for film production purposes due to inclement weather
16 conditions during the weekday period.

17 (i) The division shall charge separate fees for the
18 application and issuance of a permit under this section.
19 Revenues from the fee shall be deposited into the general fund.

20 **§9-E Hawaii film studio.** The division shall be
21 responsible for the operation and maintenance of the Hawaii film
22 studio.

1 **PART . HAWAII TELEVISION AND FILM DEVELOPMENT**

2 **§9-F Definitions.** As used in this part:

3 "Applicant" means a person applying for a grant or venture
4 capital investment from the board under this part.

5 "Board" means the Hawaii television and film development
6 board.

7 "Eligible Hawaii project" or "project" means an
8 entertainment project in which at least seventy-five per cent of
9 the budget for the production costs, excluding salaries and
10 costs for the producer, director, writer, screenplay, and actors
11 in the project, is dedicated for the purchase or lease of goods
12 or services from a vendor or supplier who is located and doing
13 business in the State.

14 "Fund" means the Hawaii television and film development
15 special fund.

16 "Venture capital investment" means any of the following
17 investments in a project:

- 18 (1) Common or preferred stock and equity securities
19 without a repurchase requirement for at least five
20 years;
21 (2) A right to purchase stock or equity securities;

1 (3) Any debenture, whether or not convertible or having
2 stock purchase rights, which is subordinated, together
3 with security interests against the assets of the
4 borrower, by their terms to all borrowings of the
5 borrower from other institutional lenders, and that is
6 for a term of not less than three years, and that has
7 no part amortized during the first three years; and

8 (4) General or limited partnership interests.

9 **§9-G Hawaii television and film development board.** (a)

10 There is established the Hawaii television and film development
11 board. The board shall be part of the division for
12 administrative purposes only. The board shall administer the
13 grant and venture capital investment programs and the Hawaii
14 television and film development special fund established under
15 this part. The board shall also assess and consider the overall
16 viability and development of the television and film industries
17 and make recommendations to appropriate state or county
18 agencies.

19 (b) The board shall be composed of nine members, four of
20 whom shall be appointed by the governor pursuant to section 26-
21 34, and all of whom shall serve four-year staggered terms. One
22 of the governor's appointments shall be made from a list of

1 nominees submitted by the president of the senate and another
2 appointment shall be made from a list of nominees submitted by
3 the speaker of the house of representatives. The four appointed
4 members shall possess a current working knowledge of the film,
5 television, or entertainment industry. The executive director
6 and the chairs of the four county film commissions or its
7 equivalent, shall serve as ex officio voting members, who may be
8 represented on the board by designees.

9 The chairperson and vice chairperson of the board shall be
10 selected by the board by majority vote. Five members shall
11 constitute a quorum, whose affirmative vote shall be necessary
12 for all actions by the board. The members shall serve without
13 compensation but shall be reimbursed for expenses, including
14 travel expenses, necessary for the performance of their duties.

15 (c) The creative media division chief or the chief's
16 designee shall serve as the executive secretary of the board.

17 (d) The board may adopt rules pursuant to chapter 91 to
18 effectuate the purposes of this part.

19 **§9-H Hawaii television and film development special fund.**

20 (a) There is established in the state treasury the Hawaii
21 television and film development special fund into which shall be
22 deposited:

- 1 (1) Appropriations by the legislature;
- 2 (2) Donations and contributions made by private
- 3 individuals or organizations for deposit into the
- 4 fund;
- 5 (3) Grants provided by governmental agencies or any other
- 6 source; and
- 7 (4) Any profits or other amounts received from venture
- 8 capital investments.

9 (b) The fund shall be used by the board to assist in, and
10 provide incentives for, the production of eligible Hawaii
11 projects that are in compliance with criteria and standards
12 established by the board in accordance with rules adopted by the
13 board pursuant to chapter 91. In particular, the board shall
14 adopt rules to provide for the implementation of the following
15 programs:

- 16 (1) A grant program. The board shall adopt rules pursuant
- 17 to chapter 91 to provide conditions and qualifications
- 18 for grants. Applications for grants shall be made to
- 19 the board and shall contain such information as the
- 20 board shall require by rules adopted pursuant to
- 21 chapter 91. At a minimum, the applicant shall agree
- 22 to the following conditions:

- 1 (A) The grant shall be used exclusively for eligible
2 Hawaii projects;
- 3 (B) The applicant shall have applied for or received
4 all applicable licenses and permits;
- 5 (C) The applicant shall comply with applicable
6 federal and state laws prohibiting discrimination
7 against any person on the basis of race, color,
8 national origin, religion, creed, sex, age, or
9 physical handicap;
- 10 (D) The applicant shall comply with other
11 requirements as the board may prescribe;
- 12 (E) All activities undertaken with funds received
13 shall comply with all applicable federal, state,
14 and county statutes and ordinances;
- 15 (F) The applicant shall indemnify and save harmless
16 the State of Hawaii and its officers, agents, and
17 employees from and against any and all claims
18 arising out of or resulting from activities
19 carried out or projects undertaken with funds
20 provided hereunder, and procure sufficient
21 insurance to provide this indemnification if
22 requested to do so by the department;

1 (G) The applicant shall make available to the board
2 all records the applicant may have relating to
3 the project, to allow the board to monitor the
4 applicant's compliance with the purpose of this
5 chapter; and

6 (H) The applicant, to the satisfaction of the board,
7 shall establish that sufficient funds are
8 available for the completion of the project for
9 the purpose for which the grant is awarded; and

10 (2) A venture capital program. The board shall adopt
11 rules pursuant to chapter 91 to provide conditions and
12 qualifications for venture capital investments in
13 eligible Hawaii projects. The program may include a
14 written agreement between the borrower and the board,
15 as the representative of the State, that as
16 consideration for the venture capital investment made
17 under this part, the borrower shall share any
18 royalties, licenses, titles, rights, or any other
19 monetary benefits that may accrue to the borrower
20 pursuant to terms and conditions established by the
21 board by rule pursuant to chapter 91. Venture capital
22 investments may be made on such terms and conditions

1 as the board shall determine to be reasonable,
2 appropriate, and consistent with the purposes and
3 objectives of this part.

4 **§9-I Inspection of premises and records.** The board shall
5 have the right to inspect, at reasonable hours, the plant,
6 physical facilities, equipment, premises, books, and records of
7 any applicant in connection with the processing of a grant to
8 the applicant."

9 SECTION 9. Section 235-17, Hawaii Revised Statutes, is
10 amended as follows:

11 1. By amending subsection (f) to read:

12 "(f) To receive the tax credit, the taxpayer shall first
13 prequalify the production for the credit by registering with the
14 [~~department of business, economic development, and tourism~~]
15 creative media division of the foundation on culture and the
16 arts during the development or preproduction stage. Failure to
17 comply with this provision may constitute a waiver of the right
18 to claim the credit."

19 2. By amending subsections (h) and (i) to read:

20 "(h) Every taxpayer claiming a tax credit under this
21 section for a qualified production shall, no later than ninety
22 days following the end of each taxable year in which qualified

1 production costs were expended, submit a written, sworn
2 statement to the [~~department of business, economic development,~~
3 ~~and tourism,~~] creative media division identifying:

4 (1) All qualified production costs as provided by
5 subsection (a), if any, incurred in the previous
6 taxable year;

7 (2) The amount of tax credits claimed pursuant to this
8 section, if any, in the previous taxable year; and

9 (3) The number of total hires versus the number of local
10 hires by category (i.e., department) and by county.

11 (i) The [~~department of business, economic development, and~~
12 ~~tourism~~] creative media division shall:

13 (1) Maintain records of the names of the taxpayers and
14 qualified productions thereof claiming the tax credits
15 under subsection (a);

16 (2) Obtain and total the aggregate amounts of all
17 qualified production costs per qualified production
18 and per qualified production per taxable year; and

19 (3) Provide a letter to the director of taxation
20 specifying the amount of the tax credit per qualified
21 production for each taxable year that a tax credit is

1 claimed and the cumulative amount of the tax credit
2 for all years claimed.

3 Upon each determination required under this subsection, the
4 ~~[department of business, economic development, and tourism]~~
5 creative media division shall issue a letter to the taxpayer,
6 regarding the qualified production, specifying the qualified
7 production costs and the tax credit amount qualified for in each
8 taxable year a tax credit is claimed. The taxpayer for each
9 qualified production shall file the letter with the taxpayer's
10 tax return for the qualified production to the department of
11 taxation. Notwithstanding the authority of the ~~[department of~~
12 ~~business, economic development, and tourism]~~ creative media
13 division under this section, the director of taxation may audit
14 and adjust the tax credit amount to conform to the information
15 filed by the taxpayer."

16 SECTION 10. Section 201-14, Hawaii Revised Statutes, is
17 repealed.

18 ~~["§201-14 Consolidated film permit processing. (a) The~~
19 ~~department shall consult with state and county agencies in order~~
20 ~~to identify sites that can be used for making visually recorded~~
21 ~~productions under terms and conditions as may be determined by~~
22 ~~the state or county agency having jurisdiction over the sites.~~

1 ~~(b) The department may accept an application from any~~
2 ~~person who proposes to make a motion picture, television show,~~
3 ~~television commercial, or other visually recorded production at~~
4 ~~one or more sites on state or county lands, whether or not set~~
5 ~~aside under section 171-11.~~

6 ~~(c) The applicant shall identify the sites to be covered~~
7 ~~by the permit and provide other information as may be required~~
8 ~~by the department.~~

9 ~~(d) The department may approve and issue a permit to film~~
10 ~~at any of the sites identified by the appropriate state or~~
11 ~~county agency under subsection (a). If any site requested for~~
12 ~~use by the applicant is not identified under subsection (a), the~~
13 ~~department shall consult with the appropriate state or county~~
14 ~~agency having jurisdiction over the site to obtain a permit. If~~
15 ~~the matter of a permit cannot be resolved in this manner, the~~
16 ~~department shall refer the application to the appropriate state~~
17 ~~or county agency to obtain a permit.~~

18 ~~(e) The department is authorized to make changes to, and~~
19 ~~extensions of, any approved permits so long as the changes and~~
20 ~~extensions do not conflict with the policies, terms, and~~
21 ~~conditions set forth by the agency having jurisdiction over the~~
22 ~~site in question.~~

1 SPECIAL ADVISOR FOR TOURISM

2 TRANSFER TO OFFICE OF THE GOVERNOR

3 SECTION 12. The purpose of this part is to transfer the
4 position of special advisor for tourism from the department of
5 business, economic development, and tourism to the office of the
6 governor.

7 SECTION 13. Chapter 27, Hawaii Revised Statutes, is
8 amended by adding a new part to be appropriately designated and
9 to read as follows:

10 "PART . TOURISM

11 §27- Special advisor for tourism. (a) There is
12 established within the office of the governor a special advisor
13 for tourism who shall be appointed by the governor without
14 regard to section 26-34. The special advisor shall not be
15 subject to chapters 77 and 89.

16 (b) The special advisor shall serve as the liaison between
17 the governor and the Hawaii tourism authority, department of
18 business, economic development, and tourism, and other public
19 and private parties on matters relating to tourism."

20 PART IV.

21 HAWAII HOUSING FINANCE AND DEVELOPMENT CORPORATION

22 TRANSFER TO DEPARTMENT OF HUMAN SERVICES

1 SECTION 14. The purpose of this part is to effectuate the
2 transfer of the Hawaii housing finance and development
3 corporation, with its statutory duties, from the department of
4 business, economic development, and tourism to the department of
5 human services.

6 SECTION 15. Section 201H-2, Hawaii Revised Statutes, is
7 amended by amending subsection (a) to read as follows:

8 "(a) There is established the Hawaii housing finance and
9 development corporation to be placed within the department of
10 [~~business, economic development, and tourism~~] human services for
11 administrative purposes only. The corporation shall be a public
12 body and a body corporate and politic."

13 PART V.

14 SMALL BUSINESS REGULATORY REVIEW BOARD

15 TRANSFER TO DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS

16 SECTION 16. The purpose of this part is to effectuate the
17 transfer of the small business regulatory review board, with its
18 statutory duties, from the department of business, economic
19 development, and tourism to the department of commerce and
20 consumer affairs.

21 SECTION 17. Section 201M-5, Hawaii Revised Statutes, is
22 amended to read as follows:

1 **"§201M-5 Small business regulatory review board; powers.**

2 (a) There shall be established within the department of
3 ~~[business, economic development, and tourism,]~~ commerce and
4 consumer affairs for administrative purposes~~[7]~~ a small business
5 regulatory review board to review any proposed new or amended
6 rule or to consider any request from small business owners for
7 review of any rule adopted by a state agency and to make
8 recommendations to the agency or the legislature regarding the
9 need for a rule change or legislation. For requests regarding
10 county ordinances, the board may make recommendations to the
11 county council or the mayor for appropriate action.

12 (b) The board shall consist of eleven members, who shall
13 be appointed by the governor pursuant to section 26-34.
14 Nominations to fill vacancies shall be made from names submitted
15 by the review board. The appointments shall reflect
16 representation of a variety of businesses in the State; provided
17 that no more than two members shall be representatives from the
18 same type of business, and that there shall be at least two
19 representatives from each county.

20 (c) All members of the board shall be either a current or
21 former owner or officer of a business and shall not be an
22 officer or employee of the federal, state, or county government.

1 A majority of the board shall elect the chairperson. The
2 chairperson shall serve a term of not more than one year, unless
3 removed earlier by a two-thirds vote of all members to which the
4 board is entitled.

5 (d) A majority of all the members to which the board is
6 entitled shall constitute a quorum to do business, and the
7 concurrence of a majority of all the members to which the board
8 is entitled shall be necessary to make any action of the board
9 valid.

10 (e) In addition to any other powers provided by this
11 chapter, the board may:

- 12 (1) Adopt any rules necessary to implement this chapter;
13 (2) Organize and hold conferences on problems affecting
14 small business; and
15 (3) Do any and all things necessary to effectuate the
16 purposes of this chapter.

17 (f) The board shall submit an annual report to the
18 legislature twenty days prior to each regular session detailing
19 any requests from small business owners for review of any rule
20 adopted by a state agency, and any recommendations made by the
21 board to an agency or the legislature regarding the need for a
22 rule change or legislation. The report shall also contain a

1 summary of the comments made by the board to agencies regarding
2 its review of proposed new or amended rules.

3 (g) The expenses of the board shall be funded entirely
4 from the compliance resolution fund; provided that this
5 provision shall not require the board to charge any fee for its
6 service. The director shall include as part of any other fee
7 charged by the department to a person or organization an amount
8 with a reasonable nexus to the small business regulatory review
9 activities of the board.

10 For the purpose of this subsection, "expenses" includes
11 operating expenses, cash capital expenses, and debt service
12 attributable to the board."

13 PART VI.

14 LAND USE COMMISSION

15 TRANSFER TO DEPARTMENT OF LAND AND NATURAL RESOURCES

16 SECTION 18. The purpose of this part is to effectuate the
17 transfer of the land use commission, with its statutory duties,
18 from the department of business, economic development, and
19 tourism to the department of land and natural resources.

20 SECTION 19. Section 205-1, Hawaii Revised Statutes, is
21 amended to read as follows:

1 **"§205-1 Establishment of the commission.** There shall be a
2 state land use commission, hereinafter called the commission.
3 The commission shall consist of nine members who shall hold no
4 other public office and shall be appointed in the manner and
5 serve for the term set forth in section 26-34. One member shall
6 be appointed from each of the counties and the remainder shall
7 be appointed at large; provided that one member shall have
8 substantial experience or expertise in traditional Hawaiian land
9 usage and knowledge of cultural land practices. The commission
10 shall elect its chairperson from one of its members. The
11 members shall receive no compensation for their services on the
12 commission, but shall be reimbursed for actual expenses incurred
13 in the performance of their duties. Six affirmative votes shall
14 be necessary for any boundary amendment.

15 The commission shall be a part of the department of
16 [~~business, economic development, and tourism~~] land and natural
17 resources for administration purposes [~~, as provided for in~~
18 ~~section 26-35~~].

19 The commission may engage employees necessary to perform
20 its duties, including administrative personnel and an executive
21 officer. The executive officer shall be appointed by the
22 commission and the executive officer's position shall be exempt

1 from civil service. Departments of the state government shall
2 make available to the commission such data, facilities, and
3 personnel as are necessary for it to perform its duties. The
4 commission may receive and utilize gifts and any funds from the
5 federal or other governmental agencies. It shall adopt rules
6 guiding its conduct, maintain a record of its activities and
7 accomplishments, and make recommendations to the governor and to
8 the legislature through the governor."

9 PART VII.

10 HAWAII COMMUNITY DEVELOPMENT AUTHORITY

11 TRANSFER TO DEPARTMENT OF LAND AND NATURAL RESOURCES

12 SECTION 20. The purpose of this part is to effectuate the
13 transfer of the Hawaii community development authority, with its
14 statutory duties, from the department of business, economic
15 development, and tourism to the department of land and natural
16 resources.

17 SECTION 21. Section 206E-3, Hawaii Revised Statutes, is
18 amended by amending subsections (a) and (b) to read as follows:

19 "(a) There is established the Hawaii community development
20 authority, which shall be a body corporate and a public
21 instrumentality of the State, for the purpose of implementing
22 this chapter. The authority shall be placed within the

1 department of [~~business, economic development, and tourism~~] land
2 and natural resources for administrative purposes.

3 (b) The authority shall consist of thirteen voting
4 members. The director of finance, the director of [~~business,~~
5 ~~economic development, and tourism,~~] land and natural resources,
6 the comptroller, and the director of transportation, or their
7 respective designated representatives shall serve as ex officio,
8 voting members. One member shall be appointed by the governor
9 from a list of not less than three prospective appointees
10 submitted by the president of the senate, and one member shall
11 be appointed by the governor from a list of not less than three
12 prospective appointees submitted by the speaker of the house of
13 representatives. Seven members shall be appointed by the
14 governor for staggered terms pursuant to section 26-34; provided
15 that four members shall be appointed at large and, initially,
16 three members, hereinafter referred to as county members, shall
17 be selected from a list of ten prospective appointees
18 recommended by the local governing body of the county in which
19 the initial designated district is situated; and provided
20 further that when vacancies occur in any of the three positions
21 for which the members were selected from a list of county
22 recommendations, the governor shall fill such vacancies on the

1 basis of one from a list of four recommendations, two from a
2 list of seven recommendations, or three from a list of ten
3 recommendations. The list of recommendations shall be made by
4 the local governing body of the county. Of the nine members
5 appointed either by the governor from the lists provided by the
6 president of the senate and speaker of the house, at-large by
7 the governor, or as county members recommended by the local
8 governing body of the county in which the initial designated
9 district is situated, at least two members shall represent small
10 businesses and shall be designated as the small business
11 representatives on the board whose purpose, among other things,
12 is to vote on matters before the board that affect small
13 businesses. The small business representatives shall be owners
14 or active managers of a small business with its principal place
15 of operation located within the physical boundaries of the
16 initial designated district. Notwithstanding section 84-14(a),
17 the small business representatives shall not be prohibited from
18 voting on any matter concerning any district under the board's
19 jurisdiction; provided that the matter is not limited to solely
20 benefiting the specific interest of that member and the matter
21 concerns broader interests within the district. If an
22 additional district is designated by the legislature, the total

1 membership of the authority shall be increased as prescribed
2 above by the appointment of three additional members, except as
3 provided for in section 206E-191. Notwithstanding section 92-
4 15, a majority of all members shall constitute a quorum to do
5 business, and the concurrence of a majority of all members shall
6 be necessary to make any action of the authority valid; except
7 that, on any matter relating solely to a specific community
8 development district, the members representing districts other
9 than that specific community development district shall neither
10 vote, nor shall they be counted to constitute a quorum, and
11 concurrence shall be required of a majority of that portion of
12 the authority made up of all ex officio voting members, members
13 at large, and county and district members representing the
14 district for which action is being proposed for such action to
15 be valid. All members shall continue in office until their
16 respective successors have been appointed and qualified. Except
17 as herein provided, no member appointed under this subsection
18 shall be an officer or employee of the State or its political
19 subdivisions.

20 For [†]purposes[†] of this section, "small business" means
21 a business which is independently owned and which is not
22 dominant in its field of operation."

1 PART VIII.

2 ALOHA TOWER DEVELOPMENT CORPORATION

3 TRANSFER TO DEPARTMENT OF TRANSPORTATION

4 SECTION 22. The purpose of this part is to effectuate the
5 transfer of the Aloha tower development corporation, with its
6 statutory duties, from the department of business, economic
7 development, and tourism to the department of transportation.

8 SECTION 23. Section 206J-4, Hawaii Revised Statutes, is
9 amended by amending subsections (a) and (b) to read as follows:

10 "(a) There is established the Aloha Tower development
11 corporation, which shall be a public body corporate and politic,
12 a public instrumentality, and an agency of the State. The
13 development corporation shall be placed within the department of
14 [~~business, economic development, and tourism~~] transportation for
15 administrative purposes, pursuant to section 26-35.

16 (b) Except as provided in section 206J-5.5, the
17 development corporation shall consist of a board of directors
18 having seven voting members. The [~~director of business,~~
19 ~~economic development, and tourism, the~~] director of
20 transportation, the chairperson of the board of land and natural
21 resources, and the mayor of the city and county of Honolulu, or
22 their respective designated representatives, shall serve as ex

1 officio voting members. [~~Three~~] Four members from the public at
2 large shall be appointed by the governor for staggered terms
3 pursuant to section 26-34 and shall also serve as voting
4 members; provided that no public member shall be an officer or
5 employee of the State or its political subdivisions. All
6 members shall continue in office until their respective
7 successors have been appointed. The board, by a majority vote,
8 shall elect a chairperson from within its membership."

9 SECTION 24. Notwithstanding any other law to the contrary,
10 the governor shall appoint a fourth member from the public at
11 large to the board of directors of the Aloha tower development
12 corporation as soon as possible after the effective date of this
13 Act. The member may serve as an appointee on an interim basis
14 until either confirmed or rejected by the senate.

15 The director of business, economic development, and tourism
16 shall no longer be a member of the board of directors of the
17 Aloha tower development corporation on the effective date of
18 this Act.

19 PART IX.

20 HIGH TECHNOLOGY DEVELOPMENT CORPORATION

21 AND

22 HIGH TECHNOLOGY INNOVATION CORPORATION

1 TRANSFER TO DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS

2 SECTION 25. The purpose of this part is to effectuate the
3 transfer of the high technology development corporation and high
4 technology innovation corporation, with their statutory duties,
5 from the department of business, economic development, and
6 tourism to the department of commerce and consumer affairs .

7 SECTION 26. Section 206M-2, Hawaii Revised Statutes, is
8 amended by amending subsections (a) and (b) to read as follows:

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

- 19 (1) Developing and encouraging industrial parks as high
20 technology innovation centers and developing or
21 assisting with the development of projects within or

- 1 outside of industrial parks, including participating
2 with the private sector in such development;
- 3 (2) Providing financial and other support and services to
4 Hawaii-based high technology companies;
- 5 (3) Collecting and analyzing information on the state of
6 commercial high technology activity in Hawaii;
- 7 (4) Promoting and marketing Hawaii as a site for
8 commercial high technology activity; and
- 9 (5) Providing advice on policy and planning for
10 technology-based economic development.
- 11 (b) The governing body of the development corporation
12 shall consist of a board of directors having eleven voting
13 members. Seven of the members shall be appointed by the
14 governor for staggered terms pursuant to section 26-34. Six of
15 the appointed members shall be from the general public and
16 selected on the basis of their knowledge, interest, and proven
17 expertise in, but not limited to, one or more of the following
18 fields: finance, commerce and trade, corporate management,
19 marketing, economics, engineering, and telecommunications, and
20 other high technology fields. The other appointed member shall
21 be selected from the faculty of the University of Hawaii. All
22 appointed members of the board shall continue in office until

1 their respective successors have been appointed. The director
2 of [~~business, economic development, and tourism,~~] commerce and
3 consumer affairs, the director of finance, an appointed member
4 from the board of the Hawaii strategic development corporation,
5 and an appointed member from the board of the natural energy
6 laboratory of Hawaii authority, or their designated
7 representatives, shall serve as ex officio voting members of the
8 board. The director of [~~business, economic development, and~~
9 ~~tourism~~] commerce and consumer affairs shall serve as the
10 chairperson until such time as a chairperson is elected by the
11 board from the membership. The board shall elect such other
12 officers as it deems necessary."

13 SECTION 27. Section 206M-15.5, Hawaii Revised Statutes, is
14 amended to read as follows:

15 "**§206M-15.5 High technology special [~~fund-~~] account.** (a)

16 There is established [~~in the state treasury a fund to be known~~
17 ~~as~~] within the compliance resolution fund the high technology
18 special [~~fund,~~] account, into which shall be deposited, except
19 as otherwise provided by [~~section~~] sections 206M-15, 206M-15.6,
20 and 206M-17, all moneys, fees, and equity from tenants,
21 qualified persons, or other users of the development
22 corporation's industrial parks, projects, other leased

1 facilities, and other services and publications [~~;~~ ~~provided that~~
2 ~~the total amount of moneys in the fund shall not exceed~~
3 ~~\$3,000,000 at the end of any fiscal year~~]. [~~All~~] The moneys in
4 ~~the [fund are appropriated for the purposes of and]~~ special
5 account shall be expended [~~by~~] for the administration and
6 operation of the development corporation [~~for~~], the operation,
7 maintenance, and management of its industrial parks, projects,
8 facilities, services, and publications, and [~~to pay~~] the
9 expenses in administering the special purpose revenue bonds of
10 the development corporation or in carrying out its project
11 agreements.

12 (b) Subsection (a) shall not require the expenses of the
13 development corporation to be exclusively funded from the
14 moneys, fees, and equity deposited into the special account.
15 Other moneys in the compliance resolution fund may be
16 appropriated and expended for the development corporation. The
17 director of commerce and consumer affairs may include as part of
18 any other fee charged by the director to a person or
19 organization an amount with a reasonable nexus to high
20 technology development activities of the corporation."

21 SECTION 28. Section 206M-51, Hawaii Revised Statutes, is
22 amended by amending subsection (a) to read as follows:

1 shall be administered and operated by the department of
2 transportation."

3 SECTION 31. Section 212-5.5, Hawaii Revised Statutes, is
4 amended to read as follows:

5 "~~{}~~**\$212-5.5**~~{}~~ **Foreign-trade zone; jurisdiction.**

6 Anything to the contrary notwithstanding, the department of
7 [~~business, economic development, and tourism~~] transportation
8 shall have jurisdiction and administrative authority over the
9 area in the vicinity of Piers 1 and 2 currently being used as a
10 foreign-trade zone. This area is defined as all of parcels 2
11 and 3-A of the Forrest Avenue subdivision, as shown on the map
12 filed in the bureau of conveyances of the State of Hawaii, as
13 file plan 2335, and lot A-1, as shown on map 2, filed in the
14 office of the assistant registrar of the land court of the State
15 of Hawaii with land court application 1328; provided that all
16 existing easements affecting and appurtenant to the parcels to
17 be deleted from the Kakaako community development district
18 boundaries shall not be affected by this change."

19 SECTION 32. Section 212-10, Hawaii Revised Statutes, is
20 repealed.

21 [~~\$212-10 Personnel. Permanent employees currently not in~~
22 ~~civil service and who are employed by the State to operate and~~

1 ~~maintain the foreign trade zone in the department of business,~~
2 ~~economic development, and tourism shall be converted to~~
3 ~~permanent civil service status within the meaning of chapter 76~~
4 ~~without the necessity of examination and shall be accorded all~~
5 ~~the rights, benefits, and privileges attributable thereto. Such~~
6 ~~rights and privileges shall include seniority, prior service~~
7 ~~credit, vacation and sick leave credits, and other benefits and~~
8 ~~privileges accorded employees with civil service status.~~
9 ~~Employees so converted shall not suffer a reduction in their pay~~
10 ~~rate."]~~

11 SECTION 33. The repeal of section 212-10, Hawaii Revised
12 Statutes, shall not affect the civil service status or
13 employment rights and privileges of any employee who was
14 converted to civil service pursuant to that section. The
15 legislature finds that the section is no longer operative and,
16 accordingly, should be repealed.

17 PART XI.

18 OFFICE OF PLANNING

19 TRANSFER TO DEPARTMENT OF LAND AND NATURAL RESOURCES

20 SECTION 34. The purpose of this part is to effectuate the
21 transfer of the office of planning, with its statutory duties,

1 from the department of business, economic development, and
2 tourism to the department of land and natural resources.

3 SECTION 35. Section 225M-2, Hawaii Revised Statutes, is
4 amended by amending subsection (a) to read as follows:

5 "(a) There is established within the department of
6 [~~business, economic development, and tourism an~~] land and
7 natural resources, the office of planning. The head of the
8 office shall be known as the director of the office of planning,
9 referred to in this chapter as director. The director shall
10 have: training in the field of urban or regional planning,
11 public administration, or other related fields; experience in
12 programs or services related to governmental planning; and
13 experience in a supervisory, consultative, or administrative
14 capacity. The director shall be nominated by the governor and,
15 by and with the advice and consent of the senate, appointed by
16 the governor without regard to chapter 76, and shall be
17 compensated at a salary level set by the governor. The director
18 shall be included in any benefit program generally applicable to
19 the officers and employees of the State. The director shall
20 retain such staff as may be necessary for the purposes of this
21 chapter, in conformity with chapter 76. The director shall
22 report to the director of business, economic development, and

1 tourism and shall not be required to report directly to any
2 other principal executive department."

3 SECTION 36. Section 205-3.1, Hawaii Revised Statutes, is
4 amended by amending subsection (d) to read as follows:

5 "(d) The county land use decision-making authority shall
6 serve a copy of the application for a district boundary
7 amendment to the land use commission and [~~the department of~~
8 ~~business, economic development, and tourism~~] office of planning
9 and shall notify the commission and [~~the department~~] office of
10 the time and place of the hearing and the proposed amendments
11 scheduled to be heard at the hearing. A change in the state
12 land use district boundaries pursuant to this subsection shall
13 become effective on the day designated by the county land use
14 decision-making authority in its decision. Within sixty days of
15 the effective date of any decision to amend state land use
16 district boundaries by the county land use decision-making
17 authority, the decision and the description and map of the
18 affected property shall be transmitted to the land use
19 commission and [~~the department of business, economic~~
20 ~~development, and tourism~~] office of planning by the county
21 planning director."

1 SECTION 37. Section 205-5.2, Hawaii Revised Statutes, is
2 amended by amending subsection (d) to read as follows:

3 "(d) After the board has completed a county-by-county
4 assessment of all areas with geothermal potential or after any
5 subsequent update or review, the board shall compare all areas
6 showing geothermal potential within each county, and shall
7 propose areas for potential designation as geothermal resource
8 subzones based upon a preliminary finding that the areas are
9 those sites which best demonstrate an acceptable balance between
10 the factors set forth in subsection (b). Once a proposal is
11 made, the board shall conduct public hearings pursuant to this
12 subsection, notwithstanding any contrary provision related to
13 public hearing procedures. Contested case procedures are not
14 applicable to these hearings.

15 (1) Hearings shall be held at locations which are in close
16 proximity to those areas proposed for designation. A
17 public notice of hearing, including a description of
18 the proposed areas, an invitation for public comment,
19 and a statement of the date, time, and place where
20 persons may be heard shall be given and mailed no less
21 than twenty days before the hearing. The notice shall
22 be given on three separate days statewide and in the

1 county in which the hearing is to be held. Copies of
2 the notice shall be mailed to the [~~department of~~
3 ~~business, economic development, and tourism,~~] office
4 of planning, to the planning commission and planning
5 department of the county in which the proposed areas
6 are located, and to all owners of record of real
7 estate within, and within one thousand feet of, the
8 area being proposed for designation as a geothermal
9 resource subzone. The notification shall be mailed to
10 the owners and addresses as shown on the current real
11 property tax rolls at the county real property tax
12 office. Upon that action, the requirement for
13 notification of owners of land is completed. For the
14 purposes of this subsection, notice to one co-owner
15 shall be sufficient notice to all co-owners;

- 16 (2) The hearing shall be held before the board, and the
17 authority to conduct hearings shall not be delegated
18 to any agent or representative of the board. All
19 persons and agencies shall be afforded the opportunity
20 to submit data, views, and arguments either orally or
21 in writing. The [~~department of business, economic~~
22 ~~development, and tourism]~~ office of planning and the

1 county planning department shall be permitted to
 2 appear at every hearing and make recommendations
 3 concerning each proposal by the board; and
 4 (3) At the close of the hearing, the board may designate
 5 areas as geothermal resource subzones or announce the
 6 date on which it will render its decision. The board
 7 may designate areas as geothermal resource subzones
 8 only upon finding that the areas are those sites which
 9 best demonstrate an acceptable balance between the
 10 factors set forth in subsection (b). Upon request,
 11 the board shall issue a concise statement of its
 12 findings and the principal reasons for its decision to
 13 designate a particular area."

14 PART XII.

15 NATURAL ENERGY LABORATORY OF HAWAII AUTHORITY

16 TRANSFER TO UNIVERSITY OF HAWAII

17 SECTION 38. The purpose of this part is to effectuate the
 18 transfer of the natural energy laboratory of Hawaii authority,
 19 with its statutory duties, from the department of business,
 20 economic development, and tourism to the University of Hawaii.

21 SECTION 39. Section 227D-2, Hawaii Revised Statutes, is
 22 amended by amending subsections (a) and (b) to read as follows:

1 "(a) There is established the natural energy laboratory of
2 Hawaii authority, which shall be a body corporate and politic
3 and an instrumentality and agency of the State. The authority
4 shall be placed within the [~~department of business, economic~~
5 ~~development, and tourism~~] University of Hawaii for
6 administrative purposes[~~, pursuant to section 26-35~~]. The
7 purpose of the natural energy laboratory of Hawaii authority
8 shall be to facilitate research, development, and
9 commercialization of natural energy resources and ocean-related
10 research, technology, and industry in Hawaii and to engage in
11 retail, commercial, or tourism activities that will financially
12 support that research, development, and commercialization at a
13 research and technology park in Hawaii. Its duties shall
14 include:

- 15 (1) Establishing, managing, and operating facilities that
16 provide sites for:
- 17 (A) Research and development;
- 18 (B) Commercial projects and businesses utilizing
19 natural resources, such as ocean water or
20 geothermal energy;

- 1 (C) Compatible businesses engaged in scientific and
- 2 technological investigations, or retail,
- 3 commercial, and tourism activities; and
- 4 (D) Businesses or educational facilities that support
- 5 the primary projects and activities;
- 6 (2) Providing support, utilities, and other services to
- 7 facility tenants and government agencies;
- 8 (3) Maintaining the physical structure of the facilities;
- 9 (4) Promoting and marketing these facilities;
- 10 (5) Promoting and marketing the reasonable utilization of
- 11 available natural resources;
- 12 (6) Supporting ocean research and technology development
- 13 projects that support national and state interests,
- 14 use facilities and infrastructure in Hawaii, and
- 15 foster potential commercial development; and
- 16 (7) Engaging in retail, commercial, and tourism activities
- 17 that are not related to facilitating research,
- 18 development, and commercialization of natural energy
- 19 resources in Hawaii; provided that all income derived
- 20 from these activities shall be deposited in the
- 21 natural energy laboratory of Hawaii authority special
- 22 fund.

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

1 development, and tourism shall serve as the chairperson until
2 such time as a chairperson is elected by the board from the
3 membership. The board shall elect other officers as it deems
4 necessary."

5 PART XIII.

6 STATE HEALTH PLANNING AND RESOURCE DEVELOPMENT PROGRAM

7 TRANSFER TO DEPARTMENT OF HEALTH

8 SECTION 40. The purpose of this part is to effectuate the
9 transfer of the administration of the state health planning and
10 resource development program from the state health planning and
11 development agency to the department of health.

12 SECTION 41. Chapter 323D, Hawaii Revised Statutes, is
13 amended by adding a new section to part II to be appropriately
14 designated and to read as follows:

15 **"§323D- Appointment of independent officer when proposed**
16 **health care facility of department of health under**
17 **consideration.** When a proposed health care facility of the
18 department of health is under consideration for the issuance of
19 or exemption from a certificate of need, the statewide council
20 shall appoint an independent officer to make a decision on the
21 certificate or need or exemption in place of the department.
22 The independent officer may be appointed from the public or

1 private sector. The independent officer shall be compensated
2 for the service from available appropriation to the department
3 of health."

4 SECTION 42. Section 321-225, Hawaii Revised Statutes, is
5 amended by amending subsection (b) to read as follows:

6 "(b) The advisory committee shall be composed of twenty
7 members: three nonvoting ex-officio members, who shall be the
8 director of transportation, the adjutant general, and the
9 ~~[administrator of the state health planning and development~~
10 ~~agency,~~ chairperson of the statewide health coordinating
11 council, or the designated representatives thereof, and
12 seventeen members representing all counties of the State who
13 shall be appointed by the governor subject to section 26-34 as
14 follows:

15 (1) Five members who shall be physicians experienced in
16 the conduct and delivery of emergency medical
17 services; provided that at least two shall be engaged
18 in the practice of emergency medicine and be board-
19 eligible or board-certified by the American Board of
20 Emergency Medicine, and provided further that at least
21 one physician shall be engaged in the practice of

1 pediatrics and be board-eligible or board-certified by
2 the American Board of Pediatrics;

3 (2) Four members who shall be consumers of health care and
4 who shall have no connection with or relationship to
5 the health care system of the State and who shall be
6 representative of all counties;

7 (3) Four members of allied health professions related to
8 emergency medical services; and

9 (4) Four members, one from each county, who shall be
10 mobile intensive care technicians or emergency medical
11 technicians engaged in the practice of pre-hospital
12 emergency medical service.

13 The members of the advisory committee shall serve without
14 compensation, but shall be reimbursed for necessary expenses
15 incurred in the performance of their duties, including travel
16 expenses. The chairperson of the advisory committee shall be
17 elected by the members from among their numbers. A majority of
18 the members of the advisory committee shall constitute a quorum
19 for the conduct of business of the advisory committee. A
20 majority vote of the members present at a meeting at which a
21 quorum is established shall be necessary to validate any action
22 of the committee."

1 SECTION 43. Section 323D-2, Hawaii Revised Statutes, is
2 amended as follows:

3 1. By adding a new definition of "department" to be
4 appropriately inserted and to read:

5 "Department" means the department of health."

6 2. By amending the definition of "organized ambulatory
7 health care facility" to read:

8 "Organized ambulatory health care facility" means a
9 facility not part of a hospital, which is organized and operated
10 to provide health services to outpatients. The [state agency]
11 department of health may adopt rules to establish further
12 criteria for differentiating between the private practice of
13 medicine and organized ambulatory health care facilities."

14 3. By repealing the definition of "state agency".

15 [~~"State agency" means the state health planning and~~
16 ~~development agency established in section 323D-11."~~]

17 SECTION 44. Section 323D-11, Hawaii Revised Statutes, is
18 amended to read as follows:

19 **"§323D-11 State health planning and development [agency-]**
20 **program.** There is established [~~within~~] under the department of
21 health [~~for administrative purposes only~~], the state health
22 planning and development [~~agency. The state agency shall be~~

1 ~~headed by an administrator who shall be appointed by the~~
2 ~~governor subject to section 26-34. The state agency shall~~
3 ~~administer the state health planning and cost containment~~
4 ~~activities as required by law.] program. The department shall~~
5 ~~administer and operate the program as provided under this~~
6 ~~chapter.~~"

7 SECTION 45. Section 323D-12.6, Hawaii Revised Statutes, is
8 amended to read as follows:

9 "~~[+]§323D-12.6[+] State health planning and development~~
10 ~~special fund; created; deposits; expenditures; fees.~~ (a) There
11 is established within the state treasury, to be administered by
12 the [~~state~~] department of health [~~planning and development~~
13 ~~agency~~], the state health planning and development special fund
14 into which shall be deposited all moneys collected under chapter
15 323D.

16 (b) Moneys in the special fund shall be expended by the
17 [~~state~~] department of health [~~planning and development agency to~~
18 ~~assist in offsetting program expenses of the agency.] for the~~
19 ~~administration and operation of the state health planning and~~
20 ~~development program of this chapter.~~

1 (c) The [~~agency~~] department shall adopt rules in
2 accordance with chapter 91 to establish reasonable fees for the
3 purposes of this chapter."

4 SECTION 46. Section 323D-17, Hawaii Revised Statutes, is
5 amended to read as follows:

6 "**§323D-17 Public hearings required.** In the preparation of
7 the state health services and facilities plan or amendments to
8 the state health services and facilities plan, the [~~state agency~~
9 ~~and the statewide council~~] department shall conduct a public
10 hearing on the proposed plan or the amendments and shall comply
11 with the provisions for notice of public hearings in chapters 91
12 and 92."

13 SECTION 47. Section 323D-47, Hawaii Revised Statutes, is
14 amended to read as follows:

15 "**§323D-47 Request for reconsideration.** The [~~state agency~~]
16 department may provide by rules adopted in conformity with
17 chapter 91 for a procedure by which any person may, for good
18 cause shown, request in writing a public hearing [~~before a~~
19 ~~reconsideration committee~~] by the department for purposes of
20 reconsideration of the [~~agency's~~] department's decision. [~~The~~
21 ~~reconsideration committee shall consist of the administrator of~~
22 ~~the state agency and the chairpersons of the statewide council,~~

1 ~~the review panel, the plan development committee of the~~
2 ~~statewide council, and the appropriate subarea health planning~~
3 ~~council. The administrator shall be the chairperson of the~~
4 ~~reconsideration committee.]~~ A request for a public hearing
5 shall be deemed [~~by the reconsideration committee~~] to have shown
6 good cause, if:

- 7 (1) It presents significant, relevant information not
8 previously considered by the [~~state agency,~~]
9 department;
- 10 (2) It demonstrates that there have been significant
11 changes in factors or circumstances relied upon by the
12 [~~state agency~~] department in reaching its decision;
- 13 (3) It demonstrates that the [~~state agency~~] department has
14 materially failed to follow its adopted procedures in
15 reaching its decision;
- 16 (4) It provides such other bases for a public hearing as
17 the [~~state agency~~] department determines constitutes
18 good causes; or
- 19 (5) The decision of the [~~administrator~~] department differs
20 from the recommendation of the statewide council.

21 To be effective a request for such a hearing shall be received
22 within ten working days of the [~~state agency~~] department's

1 decision. [~~A decision of the reconsideration committee~~
2 ~~following a public hearing under this section shall be~~
3 ~~considered a decision of the state agency for purposes of~~
4 ~~section 323D-44.~~]

5 The department may reconsider its decision after the public
6 hearing within the period established by rule."

7 SECTION 48. Section 323D-50, Hawaii Revised Statutes, is
8 amended by amending subsection (c) to read as follows:

9 "(c) Any person who violates any provision of this chapter
10 or rules adopted under this chapter, with respect to the
11 [~~agency's~~] department's requests for reporting, may be subject
12 to an administrative penalty not to exceed \$2,000 for each
13 seven-day period or fraction thereof that the violation
14 continues. The [~~administrator of the state agency~~] department
15 may impose the administrative penalty specified in this section
16 by order; provided that no penalty shall be assessed unless the
17 person charged shall have been given notice and an opportunity
18 for a hearing pursuant to chapter 91. The administrative
19 penalty contained in the notice of finding of violation shall
20 become a final order unless, within twenty days of receipt of
21 the notice, the person charged makes a written request for a
22 hearing. For any judicial proceeding to recover the

1 administrative penalty imposed, the [~~administrator~~] department
2 need only show that notice was given, a hearing was held or the
3 time granted for requesting a hearing has expired without such a
4 request, the administrative penalty was imposed, and that the
5 penalty remains unpaid."

6 SECTION 49. Section 323D-54, Hawaii Revised Statutes, is
7 amended to read as follows:

8 **"§323D-54 Exemptions from certificate of need**

9 **requirements.** Nothing in this part or rules with respect to the
10 requirement for certificates of need applies to:

11 (1) Offices of physicians, dentists, or other
12 practitioners of the healing arts in private practice
13 as distinguished from organized ambulatory health care
14 facilities, except in any case of purchase or
15 acquisition of equipment attendant to the delivery of
16 health care service and the instruction or supervision
17 for any private office or clinic involving a total
18 expenditure in excess of the expenditure minimum;

19 (2) Laboratories, as defined in section 321-11(12), except
20 in any case of purchase or acquisition of equipment
21 attendant to the delivery of health care service and
22 the instruction or supervision for any laboratory

- 1 involving a total expenditure in excess of the
2 expenditure minimum;
- 3 (3) Dispensaries and first aid stations located within
4 business or industrial establishments and maintained
5 solely for the use of employees; provided such
6 facilities do not regularly provide inpatient or
7 resident beds for patients or employees on a daily
8 twenty-four-hour basis;
- 9 (4) Dispensaries or infirmaries in correctional or
10 educational facilities;
- 11 (5) Dwelling establishments, such as hotels, motels, and
12 rooming or boarding houses that do not regularly
13 provide health care facilities or health care
14 services;
- 15 (6) Any home or institution conducted only for those who,
16 pursuant to the teachings, faith, or belief of any
17 group, depend for healing upon prayer or other
18 spiritual means;
- 19 (7) Dental clinics;
- 20 (8) Nonpatient areas of care facilities such as parking
21 garages and administrative offices;

- 1 (9) Bed changes that involve ten per cent or ten beds of
2 existing licensed bed types, whichever is less, of a
3 facility's total existing licensed beds within a two-
4 year period;
- 5 (10) Projects that are wholly dedicated to meeting the
6 State's obligations under court orders, including
7 consent decrees, that have already determined that
8 need for the projects exists;
- 9 (11) Replacement of existing equipment with its modern-day
10 equivalent;
- 11 (12) Primary care clinics under the expenditure thresholds
12 referenced in section 323D-2;
- 13 (13) Equipment and services related to that equipment, that
14 are primarily invented and used for research purposes
15 as opposed to usual and customary diagnostic and
16 therapeutic care;
- 17 (14) Capital expenditures that are required:
- 18 (A) To eliminate or prevent imminent safety hazards
19 as defined by federal, state, or county fire,
20 building, or life safety codes or regulations;
- 21 (B) To comply with state licensure standards;

1 (C) To comply with accreditation standards,
2 compliance with which is required to receive
3 reimbursements under Title XVIII of the Social
4 Security Act or payments under a state plan for
5 medical assistance approved under Title XIX of
6 such Act;

7 (15) Extended care adult residential care homes and
8 assisted living facilities; or

9 (16) Other facilities or services that the [~~agency through~~
10 ~~the statewide council~~] department chooses to exempt,
11 by rules pursuant to section 323D-62."

12 SECTION 50. Section 323D-61, Hawaii Revised Statutes, is
13 amended to read as follows:

14 "**§323D-61 Personnel.** The [~~administrator of the state~~
15 ~~agency~~] director of health shall hire necessary personnel under
16 chapter 76 to carry out the purposes of this chapter."

17 SECTION 51. Section 323D-82, Hawaii Revised Statutes, is
18 amended to read as follows:

19 "**§323D-82 Maintenance of services.** A person who has
20 acquired or is engaged in the acquisition of a hospital shall
21 not substantially reduce or eliminate direct patient care
22 services at the hospital below the levels at which those

1 services were available at the time of the acquisition, without
2 first giving written notice of the planned reduction or
3 elimination to the [~~agency~~] department and receiving the
4 [~~agency's~~] department's approval, prior to implementing the
5 reduction or elimination of services."

6 SECTION 52. Section 323D-71, Hawaii Revised Statutes, is
7 amended by repealing the definition of "agency".

8 [~~"Agency" means the state health planning and development~~
9 ~~agency."~~]

10 SECTION 53. (a) The following sections of the Hawaii
11 Revised Statutes are amended by substituting the term
12 "department" for "state agency" wherever the latter occurs:
13 323D-12, 323D-13, 323D-14, 323D-18, 323D-18.5, 323D-18.6, 323D-
14 21, 323D-22, 323D-43, 323D-44, 323D-44.7, 323D-45, 323D-45.1,
15 323D-45.3, 323D-46, 323D-46.2, 323D-48, 323D-49, and 323D-62.

16 (b) The following sections of the Hawaii Revised Statutes
17 are amended by substituting the term "department" for "agency"
18 wherever the latter occurs: 323D-44, 323D-44.5, 323D-44.7,
19 323D-52, 323D-72, 323D-73, 323D-74, 323D-75, 323D-77, 323D-78,
20 and 323D-80.

21 PART XIV.

22 MEASUREMENT STANDARDS PROGRAM

1 TRANSFER TO DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS

2 SECTION 54. The purpose of this part is to effectuate the
3 transfer of the measurement standards program, with its
4 statutory authority, from the department of agriculture to the
5 department of commerce and consumer affairs.

6 SECTION 55. Chapter 486, Hawaii Revised Statutes, is
7 amended by adding a new section to be appropriately designated
8 and to read as follows:

9 "§486- Funding of measurement standards branch. The
10 expenses of the measurement standards branch shall be funded
11 entirely from the compliance resolution fund. For this purpose,
12 "expenses" includes operating expenses, cash capital expenses,
13 and debt service attributable to the branch.

14 The department shall establish sufficient fees to comply
15 with this section."

16 SECTION 56. Section 486-1, Hawaii Revised Statutes, is
17 amended as follows:

18 1. By adding a new definition of "director" to read:

19 "Director" means the director of commerce and consumer
20 affairs."

21 2. By amending the definition of "department" to read:

1 "Department" means department of [~~agriculture.~~] commerce
2 and consumer affairs."

3 3. By amending the definition of "inspector" to read:

4 "Inspector" means any employee or official of the
5 department authorized by the [~~board~~] director to administer and
6 enforce the provisions of this [~~law.~~] chapter."

7 4. By repealing the definition of "administrator".

8 [~~"Administrator" means the administering officer of the~~
9 ~~quality assurance division, or any qualified person so~~
10 ~~designated by the chairperson."~~]

11 5. By repealing the definition of "board".

12 [~~"Board" means board of agriculture."~~]

13 6. By repealing the definition of "chairperson".

14 [~~"Chairperson" includes the chairperson of the board of~~
15 ~~agriculture and when specifically designated by the chairperson~~
16 ~~for the purpose of effectuating this chapter, the deputy to the~~
17 ~~chairperson."~~]

18 SECTION 57. Section 486-7, Hawaii Revised Statutes, is
19 amended by amending subsection (b) to read as follows:

20 "(b) These rules may include:

21 (1) Standards of net measure, and reasonable standards of
22 fill for any package;

- 1 (2) The technical and reporting procedures to be followed,
2 the report and record forms to be used by persons
3 subject to the provisions of this chapter, and the
4 marks of approval and rejection to be used by the
5 administrator, inspectors, and measurement standards
6 personnel in the discharge of their official duties;
- 7 (3) Exemptions from the sealing, labeling, marking, or
8 other requirements of the respective parts of this
9 chapter;
- 10 (4) The voluntary registration of service persons and
11 service agencies for commercial weighing and measuring
12 devices. These rules may include, but are not limited
13 to, provisions for registration fees, period of
14 registration, requirements for test equipment,
15 privileges and responsibilities of a voluntary
16 registrant, reports required, qualification
17 requirements, examinations to be administered,
18 certificates of registration, and means for revocation
19 of registration;
- 20 (5) Schedules and fees for licensing measuring devices;

- 1 (6) Schedules and fees for calibrating or testing
2 measurement standards, and registration of the
3 products covered by such measurement standards;
- 4 (7) Specifications, tolerances, and other technical
5 requirements with respect to the packaging,
6 registering, handling, storing, advertising, labeling,
7 dispensing, and selling of petroleum products;
- 8 (8) Specifications, tolerances, and other technical
9 requirements for weighing and measuring devices;
- 10 (9) Practices to assure that amounts of commodities or
11 services sold are determined in accordance with good
12 commercial practice and are so determined and
13 represented as to be accurate and informative to all
14 parties at interest;
- 15 (10) Requirements for type evaluation;
- 16 (11) Definitions, applicability, use, units, standards, and
17 tolerances relating to the International System of
18 Units; [~~and~~]
- 19 (12) Requirements for the weighing of coffee before
20 shipment out-of-state and certification of the weight
21 of the coffee; and

1 [~~(12)~~] (13) Such other rules as the board deems necessary for
2 the enforcement of this chapter."

3 SECTION 58. Section 141-4, Hawaii Revised Statutes, is
4 repealed.

5 [~~"§141-4 Weights of coffee; rules. The department of
6 agriculture may make rules respecting the weighing of coffee
7 prior to its shipment to points outside the State, and providing
8 for the certification of weights thereof. Further, a reasonable
9 schedule of fees to defray the expense of administering this
10 section shall be established by the department, which fees shall
11 be collected and deposited with the state director of finance to
12 the credit of the general fund; provided that the department
13 shall consult the appropriate industries, organizations, and
14 agencies prior to the promulgation of the rules."~~]

15 SECTION 59. The following sections of the Hawaii Revised
16 Statutes are amended by substituting the term "department" for
17 "board" wherever the latter occurs: 486-2, 486-4, 486-6, 486-7,
18 486-31, 486-36, 486-53, 486-54, 486-56, 486-105, 486-108, 486-
19 109, 486-118, 486-122, 486-132, 486-135, and 486-137.

20 SECTION 60. (a) The following section of the Hawaii
21 Revised Statutes is amended by substituting the term "director"
22 for "chairperson" wherever the latter occurs: 486-33.

1 (b) The following sections of the Hawaii Revised Statutes
2 are amended by substituting the term "director" for
3 "administrator" wherever the latter occurs: 486-4, 486-5, 486-
4 6, 486-23, 486-24, 486-31, 486-36, 486-54, 486-78, 486-79, 486-
5 80, 486-81, 486-83, and 486-118.

6 PART XV.

7 CONFORMING AMENDMENTS FOR

8 DEPARTMENT OF BUSINESS, ECONOMIC DEVELOPMENT, AND TOURISM

9 SECTION 61. The purpose of this part is to conform various
10 sections of the Hawaii Revised Statutes to the amendments made
11 under more than one of the previous parts.

12 SECTION 62. Section 26-18, Hawaii Revised Statutes, is
13 amended to read as follows:

14 **"§26-18 Department of business, economic development, and**
15 **tourism.** [~~a~~] The department of business, economic
16 development, and tourism shall be headed by a single executive
17 to be known as the director of business, economic development,
18 and tourism.

19 The department shall undertake statewide business and
20 economic development activities, undertake energy development
21 and management, [~~provide economic research and analysis,~~] plan
22 for the use of Hawaii's ocean resources, and encourage the

1 development and promotion of industry and international commerce
2 through programs established by law.

3 ~~[(b) The following are placed in the department of~~
4 ~~business, economic development, and tourism for administrative~~
5 ~~purposes as defined by section 26-35: Aloha Tower development~~
6 ~~corporation, Hawaii community development authority, Hawaii~~
7 ~~housing finance and development corporation, high technology~~
8 ~~development corporation, land use commission, natural energy~~
9 ~~laboratory of Hawaii authority, and any other boards and~~
10 ~~commissions as shall be provided by law.~~

11 ~~The department of business, economic development, and~~
12 ~~tourism shall be empowered to establish, modify, or abolish~~
13 ~~statistical boundaries for cities, towns, or villages in the~~
14 ~~State and shall publish, as expeditiously as possible, an up-to-~~
15 ~~date list of cities, towns, and villages after changes to~~
16 ~~statistical boundaries have been made.]"~~

17 SECTION 63. Section 201-2, Hawaii Revised Statutes, is
18 amended to read as follows:

19 **"§201-2 General objective, functions, and duties of**
20 **department.** It shall be the objective of the department of
21 business, economic development, and tourism to make broad policy
22 determinations with respect to economic development in the State

1 and to stimulate through research and demonstration projects
2 those industrial and economic development efforts that offer the
3 most immediate promise of expanding the economy of the State.
4 The department shall endeavor to gain an understanding of those
5 functions and activities of other governmental agencies and of
6 private agencies that relate to the field of economic
7 development. It shall, at all times, encourage initiative and
8 creative thinking in harmony with the objectives of the
9 department.

10 ~~[The department of business, economic development, and~~
11 ~~tourism shall have sole jurisdiction over the land use~~
12 ~~commission under chapter 205, state planning under chapter 225M,~~
13 ~~and the Hawaii State Planning Act under chapter 226. Due to the~~
14 ~~inherently interdependent functions of development, planning,~~
15 ~~and land use, these functions shall not be transferred by~~
16 ~~executive order, directive, or memorandum, to any other~~
17 ~~department, nor shall these functions be subject to review or~~
18 ~~approval by any other department.]"~~

19 SECTION 64. Section 201-3, Hawaii Revised Statutes, is
20 amended to read as follows:

21 **"§201-3 Specific research and promotional functions of the**
22 **department.** Without prejudice to its general functions and

1 duties the department of business, economic development, and
2 tourism shall have specific functions in the following areas:

- 3 (1) Industrial development. The department shall
4 determine through technical and economic surveys the
5 profit potential of new or expanded industrial
6 undertakings; develop through research projects and
7 other means new and improved industrial products and
8 processes; promote studies and surveys to determine
9 consumer preference as to design and quality and to
10 determine the best methods of packaging, transporting,
11 and marketing the State's industrial products;
12 disseminate information to assist the present
13 industries of the State, to attract new industries to
14 the State, and to encourage capital investment in
15 present and new industries in the State; assist
16 associations of producers and distributors of
17 industrial products to introduce these products to
18 consumers; and make grants or contracts as may be
19 necessary or advisable to accomplish the foregoing;
- 20 (2) Land development. The department shall encourage the
21 most productive use of all land in the State in
22 accordance with a general plan developed by the

1 department; encourage the improvement of land tenure
2 practices on leased private lands; promote an
3 informational program directed to landowners,
4 producers of agricultural and industrial commodities,
5 and the general public regarding the most efficient
6 and most productive use of the lands in the State; and
7 make grants or contracts as may be necessary or
8 advisable to accomplish the foregoing;

- 9 (3) Credit development. The department shall conduct a
10 continuing study of agricultural and industrial credit
11 needs; encourage the development of additional private
12 and public credit sources for agricultural and
13 industrial enterprises; promote an informational
14 program to acquaint financial institutions with
15 agricultural and industrial credit needs and the
16 potential for agricultural and industrial expansion,
17 and inform producers of agricultural and industrial
18 products as to the manner in which to qualify for
19 loans; and make grants or contracts as may be
20 necessary or advisable to accomplish the foregoing;
21 and

1 (4) Promotion. The department shall disseminate
2 information developed for or by the department
3 pertaining to economic development to assist present
4 industry in the State, attract new industry and
5 investments to the State, and assist new and emerging
6 industry with good growth potential or prospects in
7 jobs, exports, and new products. The industrial and
8 economic promotional activities of the department may
9 include the use of literature, advertising,
10 demonstrations, displays, market testing, lectures,
11 travel, motion picture and slide films, and other
12 promotional and publicity devices as may be
13 appropriate[~~;~~

14 ~~(5) Tourism research and statistics. The department shall~~
15 ~~maintain a program of research and statistics for the~~
16 ~~purpose of:~~

17 ~~(A) Measuring and analyzing tourism trends;~~

18 ~~(B) Providing information and research to assist in~~
19 ~~the development and implementation of state~~
20 ~~tourism policy;~~

21 ~~(C) Encouraging and arranging for the conduct of~~
22 ~~tourism research and information development~~

1 ~~through voluntary means or through contractual~~
2 ~~services with qualified agencies, firms, or~~
3 ~~persons; and~~
4 ~~(D) Providing tourism information to policy makers,~~
5 ~~the public, and the visitor industry. This~~
6 ~~includes:~~
7 ~~(i) Collecting and publishing visitor-related~~
8 ~~data including visitor arrivals, visitor~~
9 ~~characteristics and expenditures;~~
10 ~~(ii) Collecting and publishing hotel-related~~
11 ~~statistics including the number of units~~
12 ~~available, occupancy rates, and room rates;~~
13 ~~(iii) Collecting and publishing airline-related~~
14 ~~data including seat capacity and number of~~
15 ~~flights;~~
16 ~~(iv) Collecting information and conducting~~
17 ~~analyses of the economic, social, and~~
18 ~~physical impacts of tourism on the State;~~
19 ~~(v) Conducting periodic studies of the impact of~~
20 ~~ongoing marketing programs of the Hawaii~~
21 ~~tourism authority on Hawaii's tourism~~
22 ~~industry, employment in Hawaii, state taxes,~~

1 ~~and the State's lesser known and~~
2 ~~underutilized destinations; and~~
3 ~~(vi) Cooperate with the Hawaii tourism authority~~
4 ~~and provide it with the above information in~~
5 ~~a timely manner; and~~
6 ~~(6) Self-sufficiency standard. The department shall~~
7 ~~establish and update biennially a self-sufficiency~~
8 ~~standard that shall incorporate existing methods of~~
9 ~~calculation, and shall reflect, at a minimum, costs~~
10 ~~relating to housing, food, child care, transportation,~~
11 ~~health care, clothing and household expenses, federal~~
12 ~~and state tax obligations, family size, children's~~
13 ~~ages, geography, and the number of household wage~~
14 ~~earners. The department shall report to the~~
15 ~~legislature concerning the self-sufficiency standard~~
16 ~~no later than twenty days prior to the convening of~~
17 ~~the regular session of 2009, and every odd-numbered~~
18 ~~year thereafter. The recommendations shall address,~~
19 ~~among other things, the utilization of any federal~~
20 ~~funding that may be available for the purposes of~~
21 ~~establishing and updating the self-sufficiency~~
22 ~~standard.~~

1 Act of 2009, the movement of an officer or employee to another
2 position shall be subject to the appropriate collective
3 bargaining agreement.

4 SECTION 66. All rules, policies, procedures, guidelines,
5 and other material adopted or developed by an agency, division,
6 or program transferred under parts I to XIV shall be transferred
7 to the successor agency and shall remain in full force and
8 effect until amended or repealed by the successor agency.

9 SECTION 67. All records, equipment, machines, files,
10 supplies, contracts, books, papers, documents, maps, and other
11 personal property heretofore made, used, or acquired or held by
12 an agency, division, or program transferred under parts I to XIV
13 shall be transferred to the successor agency.

14 SECTION 68. (a) This Act shall not affect the membership
15 or term of any appointed member of a board or other policy-
16 making or advisory body transferred under parts I to XIV. Such
17 a member shall continue to serve on the board or other body for
18 the member's term without necessity of reappointment.

19 (b) Subsection (a) shall not apply to any change made by
20 parts VII, VIII, and IX to the ex officio membership of the
21 board of the Hawaii community development authority, Aloha tower

1 development corporation, and high technology development
2 corporation.

3 SECTION 69. The legislative reference bureau shall conduct
4 a review of this Act for the purpose of making recommendations
5 to move chapters affected by this Act to the appropriate titles
6 of the Hawaii Revised Statutes. The legislative reference
7 bureau shall submit its findings and recommendations,
8 accompanied by proposed legislation, to the legislature by
9 January 1, 2010.

10 SECTION 70. This Act does not affect rights and duties
11 that matured, penalties that were incurred, and proceedings that
12 were begun, before its effective date.

13 PART XVII.

14 RAMSEYER PROVISION AND EFFECTIVE DATE

15 SECTION 71. In codifying the new sections added by section
16 8 of this Act, the revisor of statutes shall substitute
17 appropriate section numbers for the letters used in designating
18 the new sections in this Act.

19 SECTION 72. Statutory material to be repealed is bracketed
20 and stricken. New statutory material is underscored.

21 SECTION 73. This Act shall take effect on July 1, 2009.

S.B. NO. 294
S.D. 2
H.D. 1
Proposed

Report Title:

Executive Branch Reorganization

Description:

Reorganizes certain executive branch agencies to correspond with HB 200, HD 1, the general appropriations act of 2009. (HD1 PROPOSED)