

JAN 18 2019

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# A BILL FOR AN ACT

RELATING TO PRINCIPAL DEPARTMENTS.

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

1           SECTION 1. Chapter 26, Hawaii Revised Statutes, is amended  
2 by adding a new part to be appropriately designated and to read  
3 as follows:

4                           "PART           .   SUNSET OF DEPARTMENTS

5           **§26-A Definitions.** As used in this part:

6           "Advisory committee" means a committee, council,  
7 commission, or other entity created under state law whose  
8 primary function is to advise a department or division of a  
9 department.

10           "Department" means a principal department established under  
11 chapter 26 and set to repeal under this part.

12           **§26-B Repeal dates for departments.** (a) Any department  
13 established by section 26-4 and listed in this section shall be  
14 repealed as specified in this section. The auditor shall  
15 perform an evaluation of the department prior to its repeal date  
16 pursuant to this part.



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1           (b) An advisory committee shall be repealed on the same  
2 date set for repeal of the department unless the advisory  
3 committee is expressly continued by law.

4           (c) Department of human resources development (section  
5 26-5), shall be repealed on June 30, 2025.

6           (d) Department of accounting and general services (section  
7 26-6), shall be repealed on June 30, 2025.

8           (e) Department of the attorney general (section 26-7),  
9 shall be repealed on June 30, 2025.

10          (f) Department of budget and finance (section 26-8), shall  
11 be repealed on June 30, 2029.

12          (g) Department of commerce and consumer affairs (section  
13 26-9), shall be repealed on June 30, 2029.

14          (h) Department of taxation (section 26-10), shall be  
15 repealed on June 30, 2029.

16          (i) Department of health (section 26-13), shall be  
17 repealed on June 30, 2033.

18          (j) Department of human services (section 26-14), shall be  
19 repealed on June 30, 2033.

20          (k) Department of land and natural resources (section  
21 26-15), shall be repealed on June 30, 2033.



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1           (1) Department of agriculture (section 26-16), shall be  
2 repealed on June 30, 2035.

3           (m) Department of business, economic development, and  
4 tourism (section 26-18), shall be repealed on June 30, 2035.

5           (n) Department of transportation (section 26-19), shall be  
6 repealed on June 30, 2035.

7           (o) Department of labor and industrial relations (section  
8 26-20), shall be repealed on June 30, 2039.

9           (p) Department of defense (section 26-21), shall be  
10 repealed on June 30, 2039.

11           (q) Department of public safety (section 26-14.6), shall  
12 be repealed on June 30, 2039.

13           **§26-C Department reports to the auditor.** (a) Before  
14 September 1 of the odd year preceding the year in which a  
15 department subject to this chapter is repealed, the department  
16 shall report to the auditor:

17           (1) Information regarding the application to the  
18 department of the criteria provided in section 26-E;

19           (2) An evaluation of department performance based on the  
20 criteria provided in section 26-E; and



1           (3) Any other information that the department considers  
2           appropriate or that is requested by the auditor.

3           (b) The reports under subsection (a) shall be submitted in  
4 the format prescribed by the auditor.

5           **§26-D Review of departments.** Before January 1 of the year  
6 in which a department subject to this part is repealed, the  
7 auditor shall conduct a review of the department and its  
8 advisory committees, which shall include:

9           (1) Department and advisory committee performance based on  
10           the criteria provided in section 26-E; and

11           (2) Department responsiveness to auditor recommendations  
12           made to the department or any division within that  
13           department within the previous five years.

14           **§26-E Criteria for review.** The auditor shall consider the  
15 following criteria to determine whether a public need exists for  
16 the continuation of a department or its advisory committees or  
17 for the performance of the functions of the department or its  
18 advisory committees:

19           (1) The efficiency and effectiveness of department  
20           operations;



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- 1           (2) The mission, goals, and objectives of the department  
2                   and the problem or need that the department was  
3                   intended to address;
- 4           (3) The extent to which the mission, goals, and objectives  
5                   have been achieved and the problem or need has been  
6                   addressed;
- 7           (4) Any activities of the department in addition to those  
8                   granted by statute, the authority for those  
9                   activities, and the extent to which those activities  
10                  are needed;
- 11          (5) An assessment of the department's fees, inspections,  
12                  enforcement, and penalties;
- 13          (6) Whether less restrictive or alternative methods of  
14                  performing any function that the department performs  
15                  could adequately protect or provide equivalent service  
16                  to the public;
- 17          (7) The extent to which the jurisdiction of the department  
18                  and the programs administered by the department  
19                  overlap or duplicate those of other departments, the  
20                  extent to which the department coordinates with those  
21                  other departments, and the extent to which the



- 1 programs administered by the department can be  
2 consolidated with the programs of other departments;
- 3 (8) The promptness and effectiveness with which the  
4 department addresses complaints concerning entities or  
5 other persons affected by the department, including an  
6 assessment of the department's administrative hearings  
7 process;
- 8 (9) An assessment of the department's rulemaking process  
9 and the extent to which the department has encouraged  
10 participation by the public in making its rules and  
11 decisions and the extent to which the public  
12 participation has resulted in rules that benefit the  
13 public;
- 14 (10) The extent to which the department has complied with  
15 federal and state laws and applicable rules regarding  
16 equality of employment opportunity and the rights and  
17 privacy of individuals;
- 18 (11) The extent to which the department issues and enforces  
19 rules relating to potential conflicts of interest of  
20 its employees;



1           (12) The extent to which the department complies with  
2           chapter 91 and follows records management practices  
3           that enable the department to respond efficiently to  
4           requests for public information;

5           (13) An assessment of the department's cybersecurity  
6           practices;

7           (14) An assessment of the department's procurement process;  
8           and

9           (15) The effect of federal intervention or loss of federal  
10          funds if the department is repealed.

11          **§26-F Auditor report to the legislature; recommendations.**

12          The office of the auditor shall submit its findings and  
13          recommendations to the legislature no later than twenty days  
14          prior to the convening of the regular session in the year in  
15          which a department subject to this part is set to be repealed.

16          The auditor report shall include:

17               (1) Findings regarding the criteria prescribed under  
18               section 26-E;

19               (2) Recommendations on whether it is in the public  
20               interest to repeal, continue, or reorganize the  
21               department and its advisory committees;



- 1           (3) Recommendations on the consolidation, transfer, or  
2           reorganization of programs within departments not  
3           under review when the programs duplicate functions  
4           performed by the department under review;
- 5           (4) Recommendations to improve the operations of the  
6           department, including management recommendations that  
7           do not require a change in the department's enabling  
8           statute;
- 9           (5) Estimated fiscal impact of the recommendations; and
- 10          (6) Proposed legislation to be considered for enactment to  
11          improve the policies, procedures, and practices of the  
12          department. The auditor may request the assistance of  
13          the legislative reference bureau in drafting  
14          recommended legislation. Any other law to the  
15          contrary notwithstanding, the auditor may release  
16          copies of preliminary reports to the legislative  
17          reference bureau if the auditor requests the  
18          legislative reference bureau's assistance under this  
19          paragraph. The legislative reference bureau shall  
20          comply with the auditor's request if the auditor





1 provides a copy of the preliminary report to the  
2 bureau.

3 **§26-G Cost of review.** The auditor shall determine the  
4 costs of a review under section 26-D, and the department shall  
5 pay the amount of those costs promptly on receipt of a statement  
6 from the auditor regarding those costs.

7 **§26-H Continuation by law.** (a) During the regular  
8 session immediately before the repeal of a department or an  
9 advisory committee that is subject to this part, the legislature  
10 may continue the department or advisory committee for a period  
11 not to exceed twelve years.

12 (b) This part does not prohibit the legislature from:

13 (1) Terminating a department or advisory committee subject  
14 to this part at an earlier date than that provided in  
15 this part; or

16 (2) Considering any other legislation relative to a  
17 department or advisory committee subject to this part.

18 **§26-I Department termination; procedure.** (a) A  
19 department that is repealed under this part may continue in  
20 existence until June 30 of the following year to conclude its  
21 business. Unless otherwise provided by law, repeal of a



1 department shall not reduce or otherwise limit the powers and  
2 authority of that department during the concluding year. A  
3 department shall be repealed and shall cease all activities at  
4 the expiration of the one-year period. Unless otherwise  
5 provided by law, all rules that have been adopted by the  
6 department shall expire at the expiration of the one-year  
7 period.

8 (b) Any unobligated and unexpended appropriations of a  
9 repealed department or advisory committee shall lapse on June 30  
10 of the even-numbered year after repeal.

11 (c) Except as provided in subsection (d) or as otherwise  
12 provided by law, all moneys in a revolving or other dedicated  
13 fund of a repealed department or advisory committee on July 1 of  
14 the even-numbered year after repeal shall be transferred to the  
15 general fund. The part of the law dedicating the money to a  
16 specific fund of a repealed department becomes void on July 1 of  
17 the even-numbered year after repeal.

18 (d) This part shall not impair or impede the payment of  
19 bonded indebtedness and all other obligations, including lease,  
20 contract, and other written obligations, incurred by a  
21 department repealed pursuant to this part, in accordance with



1 their terms. If a repealed department has outstanding bonded  
2 indebtedness or other outstanding obligations, including lease,  
3 contract, and other written obligations, the bonds and all other  
4 obligations, including lease, contract, and other written  
5 obligations, remain valid and enforceable in accordance with  
6 their terms and subject to all applicable terms and conditions  
7 of the law and proceedings authorizing the bonds and all other  
8 obligations, including lease, contract, and other written  
9 obligations.

10 If the proceedings so provide, all funds established by law  
11 or proceedings authorizing the bonds or authorizing other  
12 obligations, including lease, contract, and other written  
13 obligations, shall remain with the director of finance or the  
14 previously designated trustees. If the proceedings do not  
15 provide that the funds remain with the director of finance or  
16 the previously designated trustees, the funds shall be  
17 transferred and managed as follows:

18 (1) The governor shall designate an appropriate department  
19 that shall continue to carry out all covenants  
20 contained in the bonds and in all other obligations,  
21 including lease, contract, and other written



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1 obligations, and the proceedings authorizing the bonds  
2 and obligations, including the issuance of bonds, and  
3 the performance of all other obligations, including  
4 lease, contract, and other written obligations, to  
5 complete the construction of projects or the  
6 performance of other obligations, including lease,  
7 contract, and other written obligations.

8 (2) The designated department shall provide payment from  
9 the sources of payment of the bonds in accordance with  
10 the terms of the bonds and shall provide payment from  
11 the sources of payment of all other obligations,  
12 including lease, contract, and other written  
13 obligations, in accordance with their terms, whether  
14 from taxes, revenues, or otherwise, until the bonds  
15 and interest on the bonds are paid in full and all  
16 other obligations, including lease, contract, and  
17 other written obligations, are performed and paid in  
18 full.

19 (e) Unless the governor designates an appropriate  
20 department as prescribed by subsection (d), property and records  
21 in the custody of a repealed department or advisory committee on



1 July 1 of the year after repeal shall be transferred to the  
2 comptroller. If the governor designates an appropriate  
3 department, the property and records shall be transferred to the  
4 designated department.

5 (f) Except as otherwise expressly provided, repeal of a  
6 department does not affect rights and duties that matured,  
7 penalties that were incurred, civil or criminal liabilities that  
8 arose, or proceedings that were begun before the effective date  
9 of the repeal."

10 SECTION 2. If any provision of this Act, or the  
11 application thereof to any person or circumstance, is held  
12 invalid, the invalidity does not affect other provisions or  
13 applications of the Act that can be given effect without the  
14 invalid provision or application, and to this end the provisions  
15 of this Act are severable.

16 SECTION 3. This Act does not affect rights and duties that  
17 matured, penalties that were incurred, and proceedings that were  
18 begun before its effective date.

19 SECTION 4. This Act shall take effect upon its approval.  
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INTRODUCED BY:

~~AC~~  
John Gosh



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**Report Title:**

Principal Departments; Sunset Law; Auditor Review

**Description:**

Establishes repeal dates for each principal department, preceded by an auditor review. Establishes procedures for department termination.

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

