

DAVID Y. IGE
GOVERNOR



CRAIG K. HIRAI
DIRECTOR

ROBERT YU
DEPUTY DIRECTOR

STATE OF HAWAII
DEPARTMENT OF BUDGET AND FINANCE
P.O. BOX 150
HONOLULU, HAWAII 96810-0150

EMPLOYEES' RETIREMENT SYSTEM
HAWAII EMPLOYER-UNION HEALTH BENEFITS TRUST FUND
OFFICE OF THE PUBLIC DEFENDER

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

WRITTEN ONLY
TESTIMONY BY CRAIG K. HIRAI
DIRECTOR, DEPARTMENT OF BUDGET AND FINANCE
TO THE HOUSE COMMITTEE ON GOVERNMENT REFORM
ON
HOUSE BILL NO. 366

February 3, 2021
8:30 a.m.
Room 309

RELATING TO STATE DEPARTMENTS

The Department of Budget and Finance (B&F) provides comments on House Bill (H.B.) No. 366.

H.B. No. 366 amends Chapter 26, HRS, by adding a new part to: establish repeal dates for each principal department preceded by an auditor review; and establish procedures for department termination in six-year intervals. The bill provides for the criteria for the auditor's review to include the efficiency and effectiveness of department operations; extent of attaining department objectives; overlapping of department functions; alternative methods to carry out the functions of the department, etc. The Office of the Auditor shall submit its findings and recommendations to the Legislature no later than 20 days prior to the convening of the regular session in the year in which a department subject to this part is set to be repealed. H.B. No. 366 also indicates that the costs of the review shall be paid by the department upon receipt of the statement regarding those costs.

B&F has strong concerns with H.B. No. 366. Principal State departments under Chapter 26, HRS, are responsible for the fulfillment of duties and responsibilities that are fundamental governmental functions. Principal departments may have some limitations in achieving all departmental objectives and goals; however, the public need to continue their operations and provide general services to the State remains. Further, the funds and resources intended for the auditor's costs of review are better utilized for critical State expenditures.

Thank you for your consideration of our comments.

DAVID Y. IGE
GOVERNOR



CATHY BETTS
DIRECTOR

JOSEPH CAMPOS II
DEPUTY DIRECTOR

STATE OF HAWAII
DEPARTMENT OF HUMAN SERVICES

P. O. Box 339
Honolulu, Hawaii 96809-0339

February 2, 2021

TO: The Honorable Representative Angus L.K. McKelvey, Chair
House Committee on Government Reform

FROM: Cathy Betts, Director

SUBJECT: **HB 366 – RELATING TO STATE DEPARTMENTS.**

Hearing: Wednesday, February 3, 2021, 8:30 a.m.
Via Videoconference, State Capitol

DEPARTMENT'S POSITION: The Department of Human Services (DHS) respectfully opposes this measure as it will not likely result in more efficient government or cost savings. While we assume the underlying purpose is to make government more efficient, as written, the sweeping and radical changes will likely make it more difficult to retain or attract valuable human resources, financial resources, and maintain program integrity and continuity. Proposals such as these that appear to be an effort to create transparency and efficiencies, will instead weaken the department's ability to deliver needed benefits and services and further undermine the public's and others' confidence in Hawaii's State government.

PURPOSE: The purpose of the bill establishes repeal dates for each principal department, preceded by an auditor review. Establishes procedures for department termination in six-year intervals.

26-A Advisory committee. As described, the additional advisory committee would create another executive entity and layer of oversight over the departments. The measure does not include an appropriation for this advisory committee to operate, and it is unclear what resources will support the work of this advisory committee.

Currently, DHS takes direction from the Governor, the Legislature, the Judiciary, and all branches of the federal government. The State Auditor conducts the annual single audit for DHS as well as other audits. A search of the State Auditor's website shows 56 audits or reports related to Human Services.

As DHS receives and expends over \$750,000 of federal funds each year, federal regulations 2 CFR §200.501 and §200.514 require a financial and compliance audit to be conducted by an independent auditor. The State Auditor receives general fund appropriations from the Legislature to perform these audits and DHS provides the federal fund match.

Within the executive branch, DHS receives operational oversight and direction from the Governor's office, the Lieutenant Governor's office, Departments of Accounting & General Services, Attorney General, Budget & Finance, and Human Resources Development; and programmatic and operational oversight from appropriate federal agencies.

Additionally, each program within DHS engages with multiple advisory committees, commissions, boards, community groups, community organizations, and individuals to complete its work.

The advisory committee would have to be comprised of members who have expertise in a variety of fields, federal and state law, in order to provide sound advice on the issues identified in this measure.

There are also multiple interagency relationships and dependencies that may be impacted if an advisory committee of one department makes recommendations that impacts another. Advisory committees of different departments would have to be coordinated as the departments' programs are often interdependent upon the functioning of another. For example, federal law requires child support orders to be established for non-custodial parents of children who are in TANF households. Relevant information is exchanged between DHS and Child Support Enforcement Agency, child support orders are established, and child support payments are collected, and provided to the custodial parent or paid back to DHS.

Additionally, external forces, such as natural disasters or a global pandemic, may have tremendous impact on the community and operations, and one consideration of any review is

whether the department had the proper resources, human and fiscal, and operational tools to do the necessary work.

26-B. Repeal dates. Repealing basic executive branch departments will not result in more efficient government or cost savings. Instead, establishing a repeal date of an executive department will likely accelerate the decline in efficiency and reduce performance as those with requisite knowledge, expertise, or interest will seek employment elsewhere and Hawaii may lose its most important resource – our residents interested in working and living in Hawaii, for Hawaii. Without a qualified workforce, residents will not be served, and the public will continue to lose faith in the worthiness of state government.

Significantly, a repeal date may likely jeopardize federal funding and result in financial liability to the state, both in penalties owed to the federal government as well as to residents who will be denied benefits and services as a DHS finds itself without human resources with the expertise to execute the funded programs.

Also, our programs themselves could not withstand a sunset date of the department. For example, our Medicaid program's 1115 waiver is approved in 5- to 6-year increments. If the Centers for Medicare & Medicaid Services (CMS) did not have confidence that the State would have a program or department to do the work, CMS may not approve our State's waiver that would limit needed health care services to Hawaii's Medicaid recipients.

A wind down would inevitably begin years before the repeal date as individuals will see more secure positions. Programmatically, without the expertise, compliance and program integrity would suffer, numerous reports and other oversight functions will make operations more and more difficult. Already, we are facing staff shortages, and succession issues as our knowledgeable and experienced staff consider retirement or a change of service to more competitive industries.

Repeal dates, like temporary funding or temporary positions, stifles investment, innovation, and limits overall capacity. Services improve if funding is stable and predictable. Program development, implementation, and evaluation take time, and staff need time to learn the complexities and gain from experiences. For example, it takes a year for an Eligibility

Worker to be completely trained. Staff retention improves when they have the training, resources, and supervisory support to do their jobs.

DHS and other state departments need to be properly resourced to maintain the capacity to deliver needed benefits and services – especially when unexpected and prolonged emergencies dramatically impact the State. If 2020 was year 3 or 4 in the 6-year period described in this proposal, DHS would not have been able to quickly transition its service delivery model to a work from home environment and provide necessary essential services to Hawaii's residents. Years of investment and efforts to improve our business processes and modernization of our IT infrastructures allowed DHS to quickly pivot to meet the dramatic surge and sustained increase in all of our major public benefit programs. More than 400,000 Hawaii residents rely upon benefits and services that DHS provides to meet basic needs of health care coverage, cash assistance, nutrition assistance, energy assistance, and additional essential services.

The pandemic experience clearly shows the dedication, expertise, and competency of DHS leadership and staff to meet the challenges we have faced thus far. Reduced funding, hiring freezes and looming furloughs, a shrinking DHS workforce will likely not be able to continue to provide the level and quality of services that we have provided to this point. Delaying residents' access to health care, cash assistance, food nutrition assistance, or protection from abuse – even by a day or a week, will have long lasting effects and cause irreparable harm.

26-C Reports to the Auditor. As mentioned above, DHS already engages in annual audits with the Auditor as well as other programmatic audits required by our federal programs. DHS also submits its annual variance report to the Department of Budget & Finance regarding performance measures on multiple programmatic performance measures. DHS also has a strategic plan that includes performance measures for each program ID.

As indicated, with the repeal date in place, the inevitable wind down will begin long before September 1 of the odd year preceding the repeal date. With a department that will be

under resourced and unable to meet its mandate, any report in the odd year preceding the repeal date would likely result in a repeal.

26-D Review of departments. As above, an audit conducted before January 1 of the year in which the department is to be repealed will not likely yield very positive results. Given the time frame, the Auditor's findings would not give any department the opportunity to address negative findings.

26-E Criteria for review. DHS programs have reporting schedules to different federal funders, as well as regular audits, on many of the criteria identified.

The efficiency and effectiveness of department operations is tied to whether or not it the department has the appropriate human and fiscal resources to perform its mandated duties. Without staff and appropriate resources, efficiency, and effectiveness will inevitably suffer.

If DHS were terminated today, the loss of federal funds to the State would potentially be \$2,309,130,563 N and \$17,889,212 P (Act 9, Session Laws of Hawaii 2020). DHS also received significant COVID-19 related funds and those funds would likely not be available to the State and its residents if a competent State entity did not exist to do distribute the funds or programs.

26-F Auditor report to the legislature; recommendations. No comment.

26-G Cost of Review. DHS does not have general funds to pay for the Auditor for the cost of the review and the Legislature would need to appropriate general funds for this cost. Currently, for the audits required by federal law, the Legislature appropriates general funds directly to the Auditor and DHS provides the federal match funds. Federal funds would not be available for the cost of this proposed process mandated by State law. Additionally, the Legislature would need to fully fund general fund positions to attend to this proposed mandate as the positions would not be able to claim a federal match.

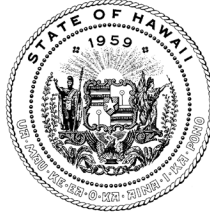
26-H Continuation by law. Similar to a repeal date, the existence of this provision would likely result in the loss of confidence in the State by the public, federal government, and other investors, and lead to an earlier devolution than intended.

26-l Department termination; procedure. (a) If DHS is terminated, as noted above the State will lose a significant amount of federal funds that go to maintaining basic human needs such as cash assistance, nutritional assistance, and most significantly access to health care.

(d)(1) – The State does not currently have another department or entity that would have the capacity, expertise, or technology to be designated to maintain the records of DHS.

Thank you for the opportunity to provide comments on this measure.

DAVID Y. IGE
GOVERNOR OF
HAWAII



SUZANNE D. CASE
CHAIRPERSON
BOARD OF LAND AND NATURAL RESOURCES
COMMISSION ON WATER RESOURCE MANAGEMENT

ROBERT K. MASUDA
FIRST DEPUTY

M. KALEO MANUEL
DEPUTY DIRECTOR - WATER

AQUATIC RESOURCES
BOATING AND OCEAN RECREATION
BUREAU OF CONVEYANCES
COMMISSION ON WATER RESOURCE MANAGEMENT
CONSERVATION AND COASTAL LANDS
CONSERVATION AND RESOURCES ENFORCEMENT
ENGINEERING
FORESTRY AND WILDLIFE
HISTORIC PRESERVATION
KAHOOLAWE ISLAND RESERVE COMMISSION
LAND
STATE PARKS

**STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES**

POST OFFICE BOX 621
HONOLULU, HAWAII 96809

**Testimony of
SUZANNE D. CASE
Chairperson**

**Before the House Committee on
GOVERNMENT REFORM**

**Wednesday, February 3, 2021
8:30 AM**

**VIA VIDEO CONFERENCE
State Capitol, Conference Room 309**

**In consideration of
HOUSE BILL 366
RELATING TO STATE DEPARTMENTS.**

House Bill 366 proposes to establish repeal dates for each principal department, preceded by an auditor review. It also establishes procedures for department termination in six-year intervals. **The department of Land and Natural Resources (Department) opposes this measure for the reasons stated below.**

This bill would be more disruptive than helpful as a way to streamline government functions.

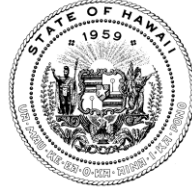
The Department's mission is to both "Enhance, protect, conserve and manage Hawaii's unique and limited natural and cultural resources" and acknowledge that these resources are "held in public trust for current and future generations of the people of Hawaii nei, and its visitors, in partnership with others from the public and private sectors." The push and pull between protection, conservation - balanced with public recreational and cultural access and enforcing conduct is at the crux of much of the controversies that the Department faces.

The department provides crucial long-term protections for much of Hawaii's forests, endangered species, reefs, fish and other ocean species. The Department lands also provides the backbone for access and enjoyment for residents and the Hawaii's tourism industry through the management of state parks, waysides, monuments, makai and mauka recreational areas, historic and cultural features, ocean recreation, small boat harbors, trails, and commercial and subsistence fishing.

The Department also believes that a repeal schedule will be disruptive and non-productive. Many of the programs that the Department initiates, for example, watershed protection, are long-term programs that will outlast administrations and legislative terms, and auditors. The Department need to do this type of long-term programming in order to meet their missions over the long term. The threat of repeal every 6-12 years, will not help in the development of long-term planning and strategy. Also, it is unclear that if a department is repealed, what will replace it and would the cost of replacing and disruption of services be worth the potential for potential increased government efficiency.

Thank you for the opportunity to comment on this measure.

LATE



DAVID Y. IGE
GOVERNOR

JOSH GREEN
LT. GOVERNOR

**STATE OF HAWAII
OFFICE OF THE DIRECTOR
DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS**

335 MERCHANT STREET, ROOM 310
P.O. BOX 541
HONOLULU, HAWAII 96809
Phone Number: 586-2850
Fax Number: 586-2856
cca.hawaii.gov

CATHERINE P. AWAKUNI COLÓN
DIRECTOR

JO ANN M. UCHIDA TAKEUCHI
DEPUTY DIRECTOR

Testimony of the Department of Commerce and Consumer Affairs

**Before the
House Committee on Government Reform
Wednesday, February 3, 2021
8:30 a.m.
Via Videoconference**

**On the following measure:
H.B. 366, RELATING TO STATE DEPARTMENTS**

WRITTEN TESTIMONY ONLY

Chair McKelvey and Members of the Committee:

My name is Catherine Awakuni Colón, and I am the Director of the Department of Commerce and Consumer Affairs (DCCA or Department). The Department opposes this bill, which establishes repeal dates for each principal department, preceded by an auditor review, and procedures for department termination in six-year intervals.

While the Department recognizes the prerogative of the Legislature to periodically evaluate the efficacy of a particular program or agency, there is little dispute that the services and functions provided by the Executive Branch are essential to the orderly functioning of our society. For example, the DCCA, through its divisions, protects the interests of consumers, depositors, and investors in the State and supervises the conduct of trades, businesses, and professions.

Testimony of DCCA

H.B. 366

Page 2 of 2

The Department asserts that a repeal and review schedule will be disruptive, non-productive, and cause the unnecessary expenditure of funds and work hours that could be better spent on services to its customers and consumers.

Thank you for the opportunity to testify on this bill.

DAVID Y. IGE
Governor

JOSH GREEN
Lt. Governor



LATE

PHYLLIS SHIMABUKURO-GEISER
Chairperson, Board of Agriculture

MORRIS ATTA
Deputy to the Chairperson

State of Hawaii
DEPARTMENT OF AGRICULTURE
1428 South King Street
Honolulu, Hawaii 96814-2512
Phone: (808) 973-9600 FAX: (808) 973-9613

TESTIMONY OF PHYLLIS SHIMABUKURO-GEISER
CHAIRPERSON, BOARD OF AGRICULTURE

BEFORE THE COMMITTEE ON GOVERNMENT REFORM

February 3, 2021

8:30 A.M.

CONFERENCE ROOM 309

HOUSE BILL NO. 366
RELATING TO STATE DEPARTMENTS

Chairperson McKelvey and Members of the Committee:

Thank you for the opportunity to testify on House Bill 366. This bill establishes repeal dates for each principal department, preceded by an auditor review and establishes procedures for department termination in six-year intervals. The Hawaii Department of Agriculture ("Department") opposes this bill and respectfully asks that it be deferred or held.

The principal departments listed in this measure for review and potential termination are instrumental in the State's ability to maintain its Constitutional obligations to its citizens. The Constitution of Hawai'i, Article XI, and Hawai'i Revised Statutes §26-16 sets forth the Department's critical responsibilities to develop, promote, support, and sustain agriculture in the State. Repeal of the enabling statutes for the Department does not relieve the State of its Constitutional obligations to its citizens. As one of the five public trust purposes, agriculture must be supported and sustained to



ensure that the State meets its fiduciary responsibilities. If the legislature wishes to repeal the Department or other departments that act in service of other constitutionally protected rights, the legislature must provide an alternate means to fulfill its public trust obligations.

The Department performs a crucial role in expanding Hawaii's agricultural industry to benefit the well-being of our island society by diversifying the economy, protecting resources important for agricultural production, and gaining greater self-sufficiency in food and renewable energy production. The Department has many varied responsibilities including establishing and maintaining irrigation systems, managing agricultural lands, marketing and business development, preventing the entry of invasive species into the state, pest and disease control and eradication, maintaining healthy livestock industries, rabies prevention, and food safety and quality assurance programs. The Department is an advocate for all agriculture, and promotes the use of available resources to aid the agriculture and aquaculture industries.

Repeal of the Department could also result in other undesirable consequences. The Department has numerous collaborative and long established working relationships with public and private partners that would be in jeopardy by the proposed actions. It could also interfere significantly with collective bargaining agreements and disrupt funding opportunities for important public projects and programs.

As such, the Department opposes this measure.