

## ACT 75

H.B. NO. 1

A Bill for an Act Relating to Higher Education.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The legislature finds that Act 226, Session Laws of Hawaii 2004, established the higher education statutory analysis interim study group and required the study group to suggest an improved organizational framework for statutes relating to higher education and the University of Hawaii, recommending statutes for consolidation, amendment, or repeal. The Act further required the study group to submit its findings and recommendations, including proposed legislation, to the legislature no later than twenty days before the convening of the regular session of 2005.

The study group was co-chaired by:

- (1) Representative K. Mark Takai, chair of the house committee on higher education; and
- (2) Senator Norman Sakamoto, chair of the senate committee on education.

The study group was composed of the following persons, who were jointly appointed by the speaker of the house of representatives and the president of the senate:

- (1) Patricia Lee, chair, board of regents of the University of Hawaii;
- (2) David McClain, acting president, University of Hawaii;
- (3) Professor Floyd McCoy, faculty member, all campus council of faculty senate chairs, University of Hawaii;
- (4) Professor Robert Bley-Vroman, faculty member, University of Hawaii at Manoa faculty senate;
- (5) Kristopher Kaupalolo, student, University of Hawaii student caucus and graduate student organization;
- (6) Andrew Ogata, student, University of Hawaii student caucus;
- (7) Walter Kirimitsu, general counsel, University of Hawaii;
- (8) David Morihara, director of government relations, University of Hawaii;
- (9) Mark Rosen, director, senate majority research office; and
- (10) Linda Oamilda, director, house majority staff office.

The legislature further finds that, upon its formation, the study group met over the interim to review and analyze statutes that the group identified as being relevant to the recodification process. The study group found that several sections and chapters of the Hawaii Revised Statutes relating to higher education and the University of Hawaii were in need of reorganization and recodification.

The purpose of this Act is to implement the study group's legislative proposals for improving the organizational framework of the relevant statutes. Specifically, this Act updates and clarifies those statutory provisions through the processes of consolidation, amendment, and repeal, to provide consistency and clarity.

The two tables below outline the improved organizational framework of the relevant statutes. The first table is a table of contents of the University of Hawaii statutes, as recodified. The first column shows the new, recodified section numbers in consecutive numerical order. The second column shows the statutory sources

from which the new sections were derived, specifically, the original section numbers. The second table, the table of derivation, switches the approach of the first table. The first column shows the original section numbers in consecutive numerical order. The second column shows the new, recodified section numbers. The table of derivation also indicates areas in the original sections where language was originally added, amended, or repealed by the study group in its proposed recodification, aside from grammatical or stylistic changes.

The tables, as well as the text of this Act, have been updated to reflect the acts from the regular session of 2005.

Table 1.

**CHAPTER  
UNIVERSITY OF HAWAII**

**Part I. System Structure**

**A. General and Administrative**

| <b>Recodified §</b> | <b>Codified §</b>     | <b>Subject Matter</b>      |
|---------------------|-----------------------|----------------------------|
| -101                | 304-1                 | Establishment              |
| -102                | 304-5                 | Purposes of the university |
| -103                | 304-2                 | Public corporation; powers |
| -104                | 304-3                 | Regents                    |
| -105                | 304-4 (a), (d) to (f) | Powers of regents          |
| -106                | 304-7                 | Gifts                      |
| -107                | 304-10                | Loans; advances            |
| -108                | 304-6                 | Suits                      |
| -109                | 304-6.3               | Service of process         |
| -110                | 304-6.2 (d) to (f)    | Indemnity                  |
| -111                | 304-6.5               | Indemnity: institutions    |
| -112                | 304-10.5              | RCUH contracts             |
| -113                | 304-8.41 (a)          | Commercial enterprises     |
| -114                | 304-23                | Hawaii history             |
| -115                | 304-24                | War records depository     |
| -116                | 304-8.911             | Child care programs        |
| -117                | 304-111               | Western Governors Univ     |

**B. Agriculture**

| <b>Recodified §</b> | <b>Codified §</b> | <b>Subject Matter</b>      |
|---------------------|-------------------|----------------------------|
| -121                | 304-73            | Soil conservation policy   |
| -122                | 304-74            | BOR as State designee      |
| -123                | 304-75            | Agency powers and duties   |
| -124                | 304-72            | Specialist in cooperatives |
| -125                | 304-76            | UH Hilo agriculture        |

## C. Career and Technical Education Under Federal Aid

| Recodified § | Codified § | Subject Matter            |
|--------------|------------|---------------------------|
| -131         | 305A-2     | BOR as State designee     |
| -132         | 305A-3     | Board power and authority |
| -133         | 305A-4     | Advisory council          |

## Part II. Students

## A. Tuition and Fees

| Recodified § | Codified §         | Subject Matter                 |
|--------------|--------------------|--------------------------------|
| -141         | 304-4 (b): ¶¶ 1, 2 | Tuition fees                   |
| -142         | 304-4 (c)          | Residence for tuition purposes |
| -143         | 304-4.4            | Public meetings exemption      |

## B. Scholarship and Assistance Programs

| Recodified § | Codified §  | Subject Matter         |
|--------------|---|------------------------|
| -151         | 304-16.6 (c): 1 <sup>st</sup> sentence                  | Scholarship/assistance |
| -152         | 304-16.5 (b): 1 <sup>st</sup> sentence<br>304-4 (b): ¶3 | Tuition waivers        |
| -153         | 304-8.95  | HOPE                   |

## C. State Higher Education Loans

| Recodified § | Codified § | Subject Matter            |
|--------------|------------|---------------------------|
| -161         | 304-92     | Loan eligibility; amounts |
| -162         | 304-93     | Repayment; collection     |
| -163         | 304-94     | Capacity of minors        |
| -164         | 304-95     | Rules                     |

## D. Hawaii Educator Loans

| Recodified § | Codified §                               | Subject Matter                |
|--------------|--|-------------------------------|
| -171         | 304-20.6 (a)                             | Loan eligibility; amounts     |
| -172         | 304-20.6 (b) to (e): exc.<br>part of (b) | Repayment; waiver; collection |
| -173         | NEW                                      | Capacity of minors            |
| -174         | 304-20.6 (b): last ¶                     | Rules                         |

## E. Educational Opportunities

| Recodified § | Codified § | Subject Matter             |
|--------------|------------|----------------------------|
| -181 (a)     | 304-63     | Equal education            |
| -181 (b)     | 304-63.1   | Coordinating office        |
| -182 (a)     | 305E-1     | College-credit equivalency |
| -182 (b)     | 305E-2     | Policies and procedures    |

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| <b>Recodified §</b> | <b>Codified §</b> | <b>Subject Matter</b> |
|---------------------|-------------------|-----------------------|
| -182 (c)            | 305E-3            | Eligibility           |
| -183                | 304-67.5          | Running start program |

**F. Continuing Education**

| <b>Recodified §</b> | <b>Codified §</b> | <b>Subject Matter</b>  |
|---------------------|-------------------|------------------------|
| -191                | 304-28            | Tuberculosis clearance |

**Part III. Personnel****A. Positions and Compensation**

| <b>Recodified §</b> | <b>Codified §</b> | <b>Subject Matter</b>          |
|---------------------|-------------------|--------------------------------|
| -201                | 304-11            | Exempt personnel               |
| -202                | 304-13            | Classification schedule        |
| -203                | 304-12            | Faculty exchange privileges    |
| -204                | 304-13.5          | Annual report                  |
| -205                | 304-4.3           | University general counsel     |
| -206                | 304-25            | Education lab school cafeteria |

**Part IV. Divisions, Departments, and Programs****A. Community Colleges**

| <b>Recodified §</b> | <b>Codified §</b> | <b>Subject Matter</b> |
|---------------------|-------------------|-----------------------|
| -211                | 305-1             | System of colleges    |
| -212                | 305-2             | Powers of the board   |

**B. Teacher Education: College; Institute**

| <b>Recodified §</b> | <b>Codified §</b> | <b>Subject Matter</b>         |
|---------------------|-------------------|-------------------------------|
| -221                | 304-20 (a)        | College of education          |
| -222                | 304-20 (b)        | Teacher ed coordinating cmtee |
| -223                | 304-20.5          | Educational partnerships      |

**C. Hawaiian Language College**

| <b>Recodified §</b> | <b>Codified §</b>               | <b>Subject Matter</b> |
|---------------------|---------------------------------|-----------------------|
| -231                | 304-69: except last 2 sentences | Establishment         |
| -232                | 304-70                          | Functions             |

**D. School of Law**

| <b>Recodified §</b> | <b>Codified §</b> | <b>Subject Matter</b>              |
|---------------------|-------------------|------------------------------------|
| -241                | 304-62            | Law school establishment           |
| -242                | 304-62.5          | Procurement institute, established |

## E. Nursing and Dental Hygiene: School; Center

| Recodified § | Codified § | Subject Matter                   |
|--------------|------------|----------------------------------|
| -251         | 304-39     | School of nursing/dental hygiene |
| -252         | 304-40     | Functions of school              |
| -253         | 304-41     | Power to contract                |
| -254         | 304D-1     | Center for nursing               |
| -255         | 304D-2     | Advisory board powers            |
| -256         | 304D-3     | Center functions                 |
| -257         | 304D-4     | Collaboration                    |

## F. Geophysics and Planetology Institute

| Recodified § | Codified § | Subject Matter                       |
|--------------|------------|--------------------------------------|
| -261         | 304-42     | Geophysics and planetology institute |
| -262         | 304-43     | State geophysicists                  |
| -263         | 304-44     | Federal assistance encouraged        |

## G. Environmental Center

| Recodified § | Codified § | Subject Matter          |
|--------------|------------|-------------------------|
| -271 (a)     | 341-3 (b)  | Environmental center    |
| -271 (b)     | 341-5 (a)  | Structure and functions |
| -271 (c)     | 341-5 (b)  | Structure and functions |

## H. Center for Labor Education and Research

| Recodified § | Codified § | Subject Matter         |
|--------------|------------|------------------------|
| -281         | 304-34     | Center; established    |
| -282         | 304-35     | Functions and programs |
| -283         | 304-36     | Advisory council       |

## I. Aquarium and Marine Laboratory

| Recodified § | Codified § | Subject Matter          |
|--------------|------------|-------------------------|
| -291         | 304-30     | State aquarium          |
| -292         | 304-31     | Site                    |
| -293         | 304-32     | Admission and user fees |

## J. Medical Education Council

| Recodified § | Codified § | Subject Matter                     |
|--------------|------------|------------------------------------|
| -301         | 304-116    | Definitions                        |
| -302         | 304-117    | Graduate medical education program |
| -303         | 304-118    | Medical education council          |
| -304         | 304-119    | Council duties                     |
| -305         | 304-120    | Council powers                     |

**ACT 75****K. Special Medical Residency Program**

| <b>Recodified §</b> | <b>Codified §</b> | <b>Subject Matter</b>        |
|---------------------|-------------------|------------------------------|
| -311                | 304-66.1          | Findings and purpose         |
| -312                | 304-66.2          | Qualifications for residency |
| -313                | 304-66.3          | Contract to fill a position  |
| -314                | 304-66.4          | Penalty for breach           |
| -315                | 304-66.5          | Residency program; defined   |

**L. [Reserved]****M. Other Special Medical or Nursing Programs**

| <b>Recodified §</b> | <b>Codified §</b> | <b>Subject Matter</b>     |
|---------------------|-------------------|---------------------------|
| -331                | 304-67            | Family practice residency |
| -332                | 304-68            | Health-related tourism    |

**N. Other Special Programs**

| <b>Recodified §</b> | <b>Codified §</b> | <b>Subject Matter</b> |
|---------------------|-------------------|-----------------------|
| -336                | 304-55            | Food and beverage     |

**Part V. Financial Structure****A. Budget Preparation and Administration**

| <b>Recodified §</b> | <b>Codified §</b>        | <b>Subject Matter</b>                  |
|---------------------|--------------------------|--|
| -341                | 304-4.5                  | Benchmarks; budget request             |
| -342                | 304-19                   | Budget request computation             |
| -343                | 304-8 (a)                | App; accounts; depositories            |
| -344                | 304-7.8: exc last clause | S/R funds appropriations               |
| -345                | 304-7.9                  | S/R funds management                   |
| -346                | 304-4.6                  | S/R funds public hearing exemption     |
| -347 (a)            | 304-8 (b)                | S/R funds annual report                |
| -347 (b)            | 304-7.8: last clause     | S/R annual report; excess expenditures |
| -347 (c)            | NEW                      | S/R annual report; other items         |

**B. General Funds**

| <b>Recodified §</b> | <b>Codified §</b> | <b>Subject Matter</b>              |
|---------------------|-------------------|------------------------------------|
| -351                | 304-7.5           | General fund budget appropriations |

## C. Special Funds

| Recodified § | Codified §                            | Subject Matter          |
|--------------|---------------------------------------|-------------------------|
| -361         | 304-6.2 (a) to (c), (g)               | UH risk management      |
| -362         | 304-8.8                               | UHM malpractice         |
| -363         | 304-16.5 (a), (c), (d)                | UH tuition and fees     |
| -364         | 304-8.9                               | Systemwide info tech    |
| -365         | 304-8.93                              | Library                 |
| -366         | 304-8.955                             | UH community services   |
| -367         | 304-8.956                             | UH aux enterprises      |
| -368         | 304-112                               | Western Governors Univ  |
| -369         | 304-16.6: except pt. of (c)           | Scholarship/assistance  |
| -369 (c)     | 304-16.6(c): 3 <sup>rd</sup> sentence | Waiver/scholar rpt      |
|              | 304-16.5(b): 3 <sup>rd</sup> sentence | HOPE rpt                |
|              | 304-16.5(b): 2 <sup>nd</sup> sentence | Waiver recommendations  |
| -370         | 304-91                                | State higher ed loan    |
| -371         | 304-20.6 (b): part of ¶1              | Hawaii educator loan    |
| -372         | 305-4                                 | Community colleges      |
| -373         | 304D-5                                | Center for nursing      |
| -374         | 304-121                               | Medical education       |
| -375         | 304-33                                | State aquarium          |
| -376         | 304-1.5                               | UH West Oahu            |
| -377         | 306-10                                | UH revenue-undertakings |

## D. Revolving Funds

| Recodified § | Codified §                                    | Subject Matter            |
|--------------|---|---------------------------|
| -381         | 304-8.41 (b)                                  | Commercial enterprises    |
| -382         | 304-8.91                                      | Child care programs       |
| -383         | 304-8.1: except (b), 1 <sup>st</sup> sentence | Research/training         |
| -384         | 304-8.92 (a)                                  | Discoveries/inventions    |
| -385         | 304-8.2                                       | Student health center     |
| -386         | 304-8.3                                       | Transcript and diploma    |
| -387         | 304-8.6                                       | UH student activities     |
| -388         | 304-8.96 (a)                                  | UH housing assistance     |
| -389         | 304-8.97                                      | UH alumni                 |
| -390         | 304-8.98                                      | UH graduate application   |
| -391         | 304-8.7                                       | UHM/UHH athletics         |
| -392         | 304-8.5                                       | CTAHR animal research     |
| -393         | 304-77  | CTAHR seed distribution   |
| -394         | 304-8.94                                      | UHM CCECS conf center     |
| -395         | 304-68.5 (a), (c)                             | Med/Nurs hth/care tourism |
| -396         | 304-27  | Ed lab school summer      |
| -397         | 304-37  | UHWO CLEAR                |
| -398         | 304-8.4: 1 <sup>st</sup> ¶                    | CC/UHH voc/tech train     |
| -399         | 304-101                                       | CC/UHH bookstore          |
| -400         | 304-69: last 2 sentences                      | UHH Haw lang college      |
| -401         | 304-8.946                                     | UHH theatre               |
| -402         | 304-8.945 (a)                                 | UHH CCECS conf center     |
| -403         | 305-5   | CC conf center            |

| Recodified § | Codified § | Subject Matter          |
|--------------|------------|-------------------------|
| -404         | 304-8.957  | UH real prop/facilities |
| -405         | 308-2      | UH parking              |

E. Trust Funds

| Recodified § | Codified § | Subject Matter           |
|--------------|------------|--------------------------|
| -411         | 304-18.5   | GEAR UP trust fund       |
| -412         | 304-8.86   | UH workers' compensation |

F. Federal Funds

| Recodified § | Codified § | Subject Matter                 |
|--------------|------------|--------------------------------|
| -421         | 304-9      | Land-grant college aid         |
| -422         | 304-71     | Agricultural extension service |
| -423         | 305A-1     | Career and technical education |

**Part VI. Facilities**

A. University Projects

| Recodified § | Codified § | Subject Matter               |
|--------------|------------|------------------------------|
| -431         | 306-1      | Definitions                  |
| -432         | 306-2      | Powers of the board          |
| -433         | 306-3      | Authorization                |
| -434         | 306-3.1    | Anticipation notes           |
| -435         | 306-4      | Revenue bonds                |
| -436         | 306-4.1    | CUSIP numbers                |
| -437         | 306-5      | Covenants                    |
| -438         | 306-6      | Validity of bonds            |
| -439         | 306-7      | Bonds                        |
| -440         | 306-7.5    | Support facility             |
| -441         | 306-8      | Payment and security         |
| -442         | 306-9      | Self-supporting              |
| -443         | 306-11     | Exempt from taxation         |
| -444         | 306-12     | Powers herein                |
| -445         | 306-13     | Funding bonds; authorization |
| -446         | 306-14     | Funding bonds; principal     |
| -447         | 306-15     | Fiscal agents                |
| -448         | 306-16     | Limitation of authority      |

B. University Parking

| Recodified § | Codified § | Subject Matter            |
|--------------|------------|---------------------------|
| -451         | 308-1      | Parking; control by board |
| -452         | 308-3      | Fines and other penalties |
| -453         | 308-4      | Revenue bonds             |



## C. University of Hawaii Equipment

| Recodified § | Codified § | Subject Matter |
|--------------|------------|----------------|
| -461         | 304-7.6    | UH equipment   |

## Part VII. Administratively Attached Entities

## A. Research Corporation of the University of Hawaii

| Recodified § | Codified § | Subject Matter           |
|--------------|------------|--------------------------|
| -471         | 307-1      | RCUH as part of UH       |
| -472         | 307-2      | RCUH board               |
| -473         | 307-3      | RCUH powers              |
| -474         | 307-3.5    | RCUH research vessel     |
| -475         | 307-4      | RCUH exceptions          |
| -476         | 307-5      | RCUH officers/employees  |
| -477         | 307-6      | RCUH annual report       |
| -478         | 307-7      | RCUH dissolution         |
| -479         | 307-8      | RCUH patents, copyrights |
| -480         | 307-9      | RCUH special account     |
| -481         | 307-10     | RCUH state contracts     |

## B. Pacific International Center for High Technology Research

| Recodified § | Codified § | Subject Matter |
|--------------|------------|----------------|
| -491         | 304-65     | PICHTR         |

## C. State Post-secondary Education Commission

| Recodified § | Codified § | Subject Matter                  |
|--------------|------------|---------------------------------|
| -501         | 305H-1     | Commission within UH            |
| -502         | 305H-2     | SPEC power/auth.                |
| -503         | 305H-15    | SPEC complaints                 |
| -504         | 305H-16    | Cooperation with state agencies |

## D. Western Regional Education Compact

| Recodified § | Codified § | Subject Matter          |
|--------------|------------|-------------------------|
| -511         | 310-1      | WICHE approval          |
| -512         | 310-2      | WICHE terms             |
| -513         | 310-3      | WICHE execution         |
| -514         | 310-4      | WICHE commissioners     |
| -515         | 310-5      | WICHE reports           |
| -516         | 310-6      | WICHE student placement |
| -517         | 310-7      | WICHE cost payment      |
| -518         | 310-8      | WICHE obligations       |

E. Hawaii Research Center for Futures Study

| Recodified § | Codified § | Subject Matter         |
|--------------|------------|------------------------|
| -521         | 222-1      | Center assigned to UH  |
| -522         | 222-2      | Futures study duties   |
| -523         | 222-3      | Futures study director |

F. Nursing Scholars Program

| Recodified § | Codified § | Subject Matter                        |
|--------------|------------|---------------------------------------|
| -531         | 304E-1     | Definitions                           |
| -532         | 304E-2     | Nursing scholars program              |
| -533         | 304E-3     | Scholarships; nursing degree programs |
| -534         | 304E-4     | Program admin                         |
| -535         | 304E-5     | Renewal report                        |

Table 2.

TABLE OF DERIVATION

Key: Am = Amended  
 N = New  
 R = Repealed

| Codified §                                | Recodified § | Subject Matter                | Effect |
|---|--------------|-------------------------------|--------|
| 222-1                                     | -521         | Futures study center          |        |
| 222-2                                     | -522         | Futures study duties          |        |
| 222-3                                     | -523         | Futures study director        |        |
| 304-1                                     | -101         | UH established                |        |
| 304-1.5                                   | -376         | UH West Oahu                  |        |
| 304-2                                     | -103         | Public corporation;<br>powers |        |
| 304-3                                     | -104         | Regents                       |        |
| 304-3: end of 5 <sup>th</sup><br>sentence |              | Election cert                 | R      |
| 304-4(a),(d)-(f)                          | -105         | Powers of regents             |        |
| 304-4(b): ¶¶ 1,2                          | -141         | Tuition fees                  |        |
| 304-4(b): ¶ 3                             | -152         | Tuition waivers               |        |
| 304-4(c)                                  | -142         | Residence                     |        |
| 304-4.3                                   | -205         | General counsel               |        |
| 304-4.4                                   | -143         | Pub mtgs exempt               |        |
| 304-4.5                                   | -341         | Benchmarks; budget<br>request |        |
| 304-4.6                                   | -346         | Spec/rev fund fees            |        |
| 304-5                                     | -102         | Purposes of UH                |        |
| 304-6                                     | -108         | Suits                         |        |
| 304-6.2(a)-(c),(g)                        | -361         | Risk mgmt spec fund           |        |
| 304-6.2(d)-(f)                            | -110         | Indemnity                     |        |
| 304-6.2(h)                                |              | Risk mgmt ann rpt             | R      |
| 304-6.3                                   | -109         | Service of process            |        |
| 304-6.5                                   | -111         | Indemnity: inst               |        |

| Codified §                                 | Recodified § | Subject Matter           | Effect |
|--|--------------|--------------------------|--------|
| 304-7                                      | -106         | Gifts                    |        |
| 304-7.5                                    | -351         | General funds            |        |
| 304-7.6                                    | -461         | Equipment                |        |
| 304-7.8: exc last cl                       | -344         | S/R funds approp         |        |
| 304-7.8: last cl                           | -347(b)      | S/R expend-appr rpt      |        |
| 304-7.9                                    | -345         | S/R funds mgmt           |        |
| 304-8(a)                                   | -343         | Approp/accts/dep         |        |
| 304-8(b)                                   | -347(a)      | S/R fund ann rpt         |        |
|  | -347(c)      | S/R rpt extra items      | N      |
| 304-8.1: exc (b), 1 <sup>st</sup> sentence | -383         | Research/train rev fund  |        |
| 304-8.1(b): 1 <sup>st</sup> sentence       |              | Research/train ann rpt   | R      |
| 304-8.2                                    | -385         | Stud hth center rev fund |        |
| 304-8.3                                    | -386         | Transc/dip rev fund      |        |
| 304-8.4: ¶ 1                               | -398         | CC/UHH voc rev fund      |        |
| 304-8.4: ¶ 2                               |              | CC/UHH voc ann rpt       | R      |
| 304-8.41(a)                                | -113         | Coml ent auth            |        |
| 304-8.41(b)                                | -381         | Coml ent rev fund        |        |
| 304-8.41(c)                                |              | Coml ent 7/01-6/04       | R      |
| 304-8.41(d)                                |              | Coml ent ann rpt         | R      |
| 304-8.5                                    | -392         | CTAHR animal rev fund    |        |
| 304-8.6                                    | -387         | Stud activ rev fund      | Am     |
| 304-8.7                                    | -391         | UHM/UHH athl rev fund    |        |
| 304-8.8                                    | -362         | UHM mal spec fund        |        |
| 304-8.86                                   | -412         | Work comp trust fund     |        |
| 304-8.9                                    | -364         | Info tech spec fund      |        |
| 304-8.91                                   | -382         | Child care rev fund      |        |
| 304-8.911                                  | -116         | Child care prog          |        |
| 304-8.92(a)                                | -384         | Disc/invent rev fund     |        |
| 304-8.92(b)                                |              | Disc/invent ann rpt      | R      |
| 304-8.93                                   | -365         | Library spec fund        |        |
| 304-8.94                                   | -394         | UHM conf ctr rev fund    |        |
| 304-8.945(a)                               | -402         | UHH conf ctr rev fund    |        |
| 304-8.945(b)                               |              | UHH conf ctr ann rpt     | R      |
| 304-8.946                                  | -401         | UHH theatre rev fund     |        |
| 304-8.95                                   | -153         | HOPE                     |        |
| 304-8.955                                  | -366         | Community serv spec fund |        |
| 304-8.956                                  | -367         | Aux enter spec fund      |        |
| 304-8.957                                  | -404         | Real prop/fac rev fund   |        |
| 304-8.96(a)                                | -388         | Hous assist rev fund     |        |
| 304-8.96(b)                                |              | Hous assist ann rpt      | R      |
| 304-8.97                                   | -389         | Alumni rev fund          |        |
| 304-8.98                                   | -390         | Grad app rev fund        |        |
| 304-9                                      | -421         | Land-grant coll aid      |        |
| 304-10                                     | -107         | Loans; advances          |        |
| 304-10.5                                   | -112         | RCUH contracts           | Am     |
| 304-11                                     | -201         | Exempt personnel         |        |

| Codified §                            | Recodified § | Subject Matter         | Effect |
|---------------------------------------|--------------|------------------------|--------|
| 304-12                                | -203         | Faculty exchanges      |        |
| 304-12.5                              |              | Grad assist scholar    | R      |
| 304-13                                | -202         | Classification sched   |        |
| 304-13.5                              | -204         | Personnel ann rpt      |        |
| 304-16.5(a),(c),(d)                   | -363         | Tuition/fees spec fund |        |
| 304-16.5(b): 1 <sup>st</sup> sentence | -152         | Tuition waivers        |        |
| 304-16.5(b): 2 <sup>nd</sup> sentence | -369(c)      | Waiver recommend       |        |
| 304-16.5(b): 3 <sup>rd</sup> sentence | -369(c)      | HOPE waiv/scholar rpt  | Am     |
| 304-16.6(a)                           | -369(a)      | Scholar/asst spec fund | Am     |
| 304-16.6(b)                           | -369(b)      | Scholar/asst spec fund |        |
| 304-16.6(c): 1 <sup>st</sup> sentence | -151         | Scholar/asst prog      | Am     |
| 304-16.6(c): 2 <sup>nd</sup> sentence |              | Scholar/asst ann rpt   | R      |
| 304-16.6(c): 3 <sup>rd</sup> sentence | -369(c)      | Waiver/scholar rpt     |        |
| 304-18.5                              | -411         | GEAR UP trust fund     |        |
| 304-19                                | -342         | Budget computation     |        |
| 304-20(a)                             | -221         | Coll of education      |        |
| 304-20(b)                             | -222         | Teacher ed coord cmtee |        |
| 304-20.5                              | -223         | Ed partnerships        | Am     |
| 304-20.6(a)                           | -171         | Educator loan elig     |        |
| 304-20.6(b)-(e): exc pt of (b)        | -172         | Ed loan oblig          |        |
| 304-20.6(b): pt of ¶ 1                | -371         | Ed loan spec fund      |        |
| 304-20.6(b): last ¶                   | -174         | Ed loan rules          |        |
|                                       | -173         | Ed loan minors         | N      |
| 304-23                                | -114         | Hawaii history         |        |
| 304-24                                | -115         | War records depository |        |
| 304-25                                | -206         | Lab sch caf persons    | Am     |
| 304-26                                |              | Lab sch lunch          | R      |
| 304-27                                | -396         | Lab sch sumr rev fund  | Am     |
| 304-28                                | -191         | TB clearance           |        |
| 304-30                                | -291         | State aquarium         |        |
| 304-31                                | -292         | Aquarium site          |        |
| 304-32                                | -293         | Aquarium fees          | Am     |
| 304-33                                | -375         | Aquarium spec fund     | Am     |
| 304-34                                | -281         | CLEAR established      |        |
| 304-35                                | -282         | CLEAR functions        |        |
| 304-36                                | -283         | CLEAR adv council      |        |
| 304-37                                | -397         | UHWO CLEAR rev fund    |        |
| 304-39                                | -251         | Nurs/dent hygiene      | Am     |
| 304-40                                | -252         | Functions              | Am     |
| 304-41                                | -253         | Power to contract      | Am     |
| 304-42                                | -261         | Geo and planet inst    | Am     |
| 304-43                                | -262         | State geophysicists    | Am     |
| 304-44                                | -263         | Federal assistance     | Am     |
| 304-55                                | -336         | Food and beverage      |        |
| 304-62                                | -241         | Law school             |        |
| 304-62.5                              | -242         | Procurement inst       |        |

| Codified §                   | Recodified § | Subject Matter                        | Effect |
|------------------------------|--------------|---------------------------------------|--------|
| 304-63                       | -181(a)      | Equal education                       |        |
| 304-63.1                     | -181(b)      | Equal ed coord off                    |        |
| 304-65                       | -491         | PICHTR                                |        |
| 304-66.1                     | -311         | Spec med resid                        |        |
| 304-66.2                     | -312         | Qualifications                        |        |
| 304-66.3                     | -313         | Contract                              |        |
| 304-66.4                     | -314         | Penalty for breach                    |        |
| 304-66.5                     | -315         | Residency prog                        |        |
| 304-67                       | -331         | Fam prac resid                        |        |
| 304-67.5                     | -183(a)-(e)  | Running start prog                    |        |
|                              | -183(f)      | Running start fees                    | N      |
| 304-68                       | -332         | Hth-rel tourism                       | Am     |
| 304-68.5(a),(c)              | -395         | Hth care tour rev fund                | Am     |
| 304-68.5(b)                  |              | Hth care tour ann rpt                 | R      |
| 304-69: exc last 2 sentences | -231         | Haw lang coll                         | Am     |
| 304-69: last 2 sentences     | -400         | Haw lang coll rev fund                | Am     |
| 304-70                       | -232         | Haw lang coll functions               |        |
| 304-71                       | -422         | Ag extension                          |        |
| 304-72                       | -124         | Specialist in coop                    |        |
| 304-73                       | -121         | Soil conserv policy                   |        |
| 304-74                       | -122         | BOR as State designee                 |        |
| 304-75                       | -123         | Agency powers/duties                  |        |
| 304-76                       | -125         | UHH agriculture                       |        |
| 304-77                       | -393         | CTAHR seed rev fund                   |        |
| 304-91                       | -370         | High/ed loan spec fund                | Am     |
| 304-92                       | -161         | Higher/ed loan elig                   | Am     |
| 304-93                       | -162         | Higher/ed loan oblig                  | Am     |
| 304-94                       | -163         | Higher/ed loan minor                  |        |
| 304-95                       | -164         | Higher/ed loan rules                  |        |
| 304-101                      | -399         | CC/UHH book rev fund                  |        |
| 304-111                      | -117         | Western Governors Univ                |        |
| 304-112                      | -368         | West Gov spec fund                    |        |
| 304-116                      | -301         | Med ed definitions                    |        |
| 304-117                      | -302         | Grad med ed                           |        |
| 304-118                      | -303         | Med ed council                        |        |
| 304-119                      | -304         | Med ed council duties                 |        |
| 304-120                      | -305         | Med ed council powers                 |        |
| 304-121                      | -374         | Med ed spec fund                      | Am     |
| 304D-1                       | -254         | Center for nursing                    | Am     |
| 304D-2                       | -255         | Ctr nursing adv board powers          |        |
| 304D-3                       | -256         | Ctr nursing functions                 |        |
| 304D-4                       | -257         | Collab with ctr                       | Am     |
| 304D-5                       | -373         | Ctr nursing spec fund                 | Am     |
| 304E-1                       | -531         | Definitions                           |        |
| 304E-2                       | -532         | Nursing scholars prog                 |        |
| 304E-3                       | -533         | Scholarships; nursing degree programs |        |
| 304E-4                       | -534         | Program admin                         |        |
| 304E-5                       | -535         | Renewal report                        |        |

| Codified § | Recodified § | Subject Matter                  | Effect |
|------------|--------------|---------------------------------|--------|
| 305-1      | -211         | Community colleges              |        |
| 305-2      | -212         | Powers of the board             |        |
| 305-4      | -372         | CC spec fund                    | Am     |
| 305-5      | -403         | CC conf ctr rev fund            | Am     |
| 305A-1     | -423         | Tech ed federal aid             | Am     |
| 305A-2     | -131         | BOR as designee                 |        |
| 305A-3     | -132         | BOR power/authority             |        |
| 305A-4     | -133         | Tech ed adv council             |        |
| 305E-1     | -182(a)      | Coll-credit equiv               |        |
| 305E-2     | -182(b)      | Policies/procedures             |        |
| 305E-3     | -182(c)      | Eligibility                     |        |
| 305H-1     | -501         | SPEC                            |        |
| 305H-2     | -502         | SPEC power/auth                 |        |
| 305H-11    |              | Post/sec review prog            | R      |
| 305H-12    |              | Post/sec review prog            | R      |
| 305H-13    |              | Post/sec review prog            | R      |
| 305H-14    |              | Post/sec review prog            | R      |
| 305H-15    | -503         | SPEC complaints                 |        |
| 305H-16    | -504         | Cooperation with state agencies |        |
| 306-1      | -431         | UH projects definition          |        |
| 306-2      | -432         | Powers of the board             |        |
| 306-3      | -433         | Authorization                   |        |
| 306-3.1    | -434         | Anticipation notes              |        |
| 306-4      | -435         | Revenue bonds                   |        |
| 306-4.1    | -436         | CUSIP numbers                   |        |
| 306-5      | -437         | Covenants                       |        |
| 306-6      | -438         | Validity of bonds               |        |
| 306-7      | -439         | Bonds                           |        |
| 306-7.5    | -440         | Support facility                |        |
| 306-8      | -441         | Payment and security            |        |
| 306-9      | -442         | Self-supporting                 | Am     |
| 306-10     | -377         | Rev-under S/R fund              | Am     |
| 306-11     | -443         | Exempt from taxation            |        |
| 306-12     | -444         | Powers herein                   |        |
| 306-13     | -445         | Funding bonds; auth             |        |
| 306-14     | -446         | Funding bonds; prin             |        |
| 306-15     | -447         | Fiscal agents                   |        |
| 306-16     | -448         | Limit of authority              |        |
| 307-1      | -471         | RCUH as part of UH              |        |
| 307-2      | -472         | RCUH board                      |        |
| 307-3      | -473         | RCUH powers                     |        |
| 307-3.5    | -474         | RCUH research vessel            |        |
| 307-4      | -475         | RCUH exceptions                 |        |
| 307-5      | -476         | RCUH officers/<br>employees     |        |
| 307-6      | -477         | RCUH annual report              |        |
| 307-7      | -478         | RCUH dissolution                |        |
| 307-8      | -479         | RCUH patents,<br>copyrights     |        |
| 307-9      | -480         | RCUH special account            |        |

| Codified § | Recodified § | Subject Matter             | Effect |
|------------|--------------|----------------------------|--------|
| 307-10     | -481         | RCUH state contracts       |        |
| 308-1      | -451         | Parking                    | Am     |
| 308-2      | -405         | UH parking rev fund        |        |
| 308-3      | -452         | Parking fines              |        |
| 308-4      | -453         | Revenue bonds              |        |
| 310-1      | -511         | WICHE approval             |        |
| 310-2      | -512         | WICHE terms                |        |
| 310-3      | -513         | WICHE execution            |        |
| 310-4      | -514         | WICHE commissioners        |        |
| 310-5      | -515         | WICHE reports              |        |
| 310-6      | -516         | WICHE student<br>placement |        |
| 310-7      | -517         | WICHE cost payment         |        |
| 310-8      | -518         | WICHE obligations          |        |
| 341-3(b)   | -271(a)      | Environmental ctr          | Am     |
| 341-5(a)   | -271(b)      | Structure/functions        |        |
| 341-5(b)   | -271(c)      | Structure/functions        |        |

## PART I. THE RECODIFICATION

SECTION 2. The Hawaii Revised Statutes is amended by adding a new chapter to be appropriately designated and to read as follows:

### “CHAPTER UNIVERSITY OF HAWAII SYSTEM

#### PART I. SYSTEM STRUCTURE

##### A. General and Administrative Provisions

§ -101 **Establishment; available to all.** There shall be a University of Hawaii that shall consist of such colleges and departments as may from time to time be established. As used in this chapter, “university” refers to the University of Hawaii, unless otherwise required by the context.

No person, because of race, color, religion, sex, national origin, or physical disability, shall be deprived of the privileges of the university. As used in this section, “physical disability” means a physical impairment that substantially limits one or more of a person’s major life activities.

§ -102 **Purposes of the university.** The purposes of the university are to give thorough instruction and conduct research in, and disseminate knowledge of, agriculture, mechanic arts, mathematical, physical, natural, economic, political, and social sciences, languages, literature, history, philosophy, and such other branches of advanced learning as the board of regents from time to time may prescribe and to give such military instruction as the board of regents may prescribe and that the federal government requires. The standard of instruction shall be equal to that given and required in similar universities on the mainland United States. Upon the successful completion of prescribed courses, the board of regents may confer a corresponding degree upon every student who becomes entitled thereto.

§ -103 **University to be public corporation; general powers.** The University of Hawaii is established as the state university and is constituted as a body corporate. The university, under the direction of the board of regents, shall have the following general powers:

- (1) To adopt, amend, and repeal bylaws governing the conduct of its business and the performance of the powers and duties granted to or imposed upon it by law;
- (2) To acquire in any lawful manner any property, real, personal, or mixed, tangible or intangible, or any interest therein; to hold, maintain, use, and operate that property; and to sell, lease, or otherwise dispose of that property at such time, in such manner, and to the extent deemed necessary or appropriate to carry out its purposes;
- (3) To enter into and perform contracts, leases, cooperative agreements, or other transactions as may be necessary in the conduct of its business and on terms it may deem appropriate, with any agency or instrumentality of the United States, with any state, territory, or possession, or with any political subdivision thereof, or with any person, firm, association, or corporation;
- (4) To determine the character of and the necessity for its obligations and expenditures and the manner in which they shall be incurred, allowed, and paid, subject to provisions of law specifically applicable to the university;
- (5) To execute, in accordance with its bylaws, all instruments necessary or appropriate in the exercise of any of its powers; and
- (6) To take such actions as may be necessary or appropriate to carry out the powers conferred upon it by law.

§ -104 **Regents; appointment; tenure; qualifications; meetings.** (a) The affairs of the university shall be under the general management and control of the board of regents consisting of twelve members who shall be appointed and may be removed by the governor. The term of each member shall be for four years; provided that the term of the student member shall be for two years. Except as otherwise provided by statute, state officers shall be eligible to appointment and membership. Every member may serve beyond the expiration date of the member's term of appointment until the member's successor has been appointed and has qualified.

(b) At its first meeting after June 30, the board of regents shall elect a chairperson and vice-chairperson, who shall serve until adjournment of its first meeting after June 30 of the next year or thereafter until their successors are appointed. The board shall appoint a secretary, who shall not be a member of the board. The president of the university shall act as executive officer of the board. The board shall meet not less often than ten times annually and, from time to time, may meet in each of the counties of Hawaii, Maui, and Kauai.

(c) The members of the board of regents shall serve without pay but shall be entitled to their travel expenses within the State when attending meetings of the board or when actually engaged in business relating to the work of the board.

§ -105 **Powers of regents; official name.** (a) The board of regents shall have management and control of the general affairs, and exclusive jurisdiction over the internal structure, management, and operation of the university. The board may appoint a treasurer and other officers as it deems necessary. The board may authorize any officer, elected or appointed by it, to approve and sign on its behalf any voucher or other document that the board may approve and sign. The board may delegate to the president or the president's designee the authority to render the final decision in contested case proceedings subject to chapter 91, as it deems appropriate. The board



may purchase or otherwise acquire lands, buildings, appliances, and other property for the purposes of the university and expend such sums of money as, from time to time, may be placed at the disposal of the university from whatever source. All lands, buildings, appliances, and other property so purchased or acquired shall be and remain the property of the university to be used in perpetuity for the benefit of the university. The board, in accordance with law, shall manage the inventory, equipment, surplus property, and expenditures of the university and, subject to chapter 91, may adopt rules, further controlling and regulating the same.

(b) The board of regents shall develop internal policies and procedures for the procurement of goods, services, and construction, consistent with the goals of public accountability and public procurement practices, subject to chapter 103D.

(c) The board of regents may enter into concession agreements without regard to chapter 102.

(d) The official name of the board shall be the board of regents, University of Hawaii. The board shall adopt and use a common seal by which all official acts shall be authenticated.

**§ -106 Gifts; investment authority.** (a) The board of regents may receive, manage, and invest moneys or other property, real, personal, or mixed, which may be given, bequeathed, devised, or in any manner received from sources other than the legislature or any federal appropriation for the purpose of the university, its improvement or adornment, or the aid or advantage of students or faculty, and in general act as trustee on behalf of the university for any of such purposes or objects.

(b) Any law to the contrary notwithstanding, land-grant college aid moneys obtained under section -421 may be received, managed, and invested pursuant to this section.

(c) The board of regents shall cause to be kept suitable books of account wherein shall be recorded each gift, the essential facts of the management thereof, and the expenditure of the income. A statement of all trust funds shall be included in the annual report to the governor and the legislature.

**§ -107 Loans; advances.** The university may borrow, from time to time from the state treasury, sums that in the aggregate shall not exceed \$100,000, and the director of finance may make the loans to the university, without interest; provided that the loans shall be repaid within the same fiscal year unless extended by the director. In addition to the foregoing, the director of finance may advance funds to the university when required to meet reimbursable costs incurred in connection with federally financed research and training projects; provided that the advances shall not amount in the aggregate to more than \$100,000 at any time.

**§ -108 Suits.** (a) The university may sue and be sued in its corporate name. Notwithstanding any other law to the contrary, all claims arising out of the acts or omissions of the university or the members of its board of regents, its officers, or its employees, including claims permitted against the State under chapter 661, part I, and claims for torts permitted against the State under chapter 662, may be brought only pursuant to this section and only against the university. However, the university shall be subject to suit only in the manner provided for suits against the State, including section 661-11, and any liability incurred by the university in such a suit shall be solely the liability of the university, shall be payable solely from the moneys and property of the university, and shall not constitute a general obligation of the State or be secured directly or indirectly by the full faith and credit of the State or the general credit of the State or by any revenue or taxes of the State. All defenses available to the State, as well as all limitations on actions against the State, shall be applicable to the university.

(b) The board of regents, upon the advice of its attorney, may arbitrate, compromise, or settle any claim, action, or suit brought against the university pursuant to this section. Any claim compromised or settled under this subsection shall be payable solely from the moneys and property of the university and shall not constitute a general obligation of the State or be secured directly or indirectly by the full faith and credit of the State or the general credit of the State or by any revenue or taxes of the State. Nothing in this subsection precludes the board of regents from requesting and securing legislative appropriations to fund the settlement of any such claim or judgment against the university or its regents, officers, employees, or agents.

(c) Rights and remedies conferred by this section shall be exclusive and shall not be construed to authorize any other claim, suit, or action against the State. In addition, a judgment, compromise, or settlement in an action brought against the university under this section shall constitute a complete bar to any action brought by the claimant, by reason of the same subject matter, against the State or an officer or employee of the university.

(d) The university may purchase insurance to cover any claims anticipated under this section.

**§ -109 Service of process.** (a) Service of process upon the university shall be made by serving a filed and certified copy of the summons and of the complaint on the university general counsel in accordance with applicable court rules and chapter 634 or on any attorney in the office of the university general counsel.

(b) Service of process upon an officer or employee of the university being sued in the officer's or employee's official capacity shall be made by serving the university and by delivering a copy of the summons and of the complaint to that officer or employee in accordance with applicable court rules and chapter 634.

**§ -110 Indemnification.** (a) Notwithstanding any other law to the contrary, the board of regents may agree in writing to an indemnity provision by which the university agrees to indemnify, defend, and hold harmless any person, corporation, or entity that sponsors research at the university when all of the following conditions are satisfied:

- (1) The person, corporation, or entity requires an indemnity in writing as a condition for providing a grant, benefit, service, or interest in or right to use property;
- (2) The president, or the president's designee, following a favorable review by the university general counsel or the counsel's designee, approves the proposed indemnification; and
- (3) The chief financial officer, pursuant to section -108, has obtained an insurance policy or policies in an amount sufficient to cover the liability of the university that may be reasonably anticipated to arise under the indemnity provision or has determined that it is not in the best interest of the university to obtain insurance.

(b) Nothing in this section shall be construed to expand the scope of liability of the university beyond that set forth in chapters 661 and 662.

(c) Nothing in this section shall be construed to waive the immunity of the university from suit in federal courts guaranteed by the Eleventh Amendment to the United States Constitution. An indemnity provision not in strict compliance with this section shall not give rise to a claim against the university under this chapter or chapter 661 or otherwise waive the university's sovereign immunity.

**§ -111 Indemnification of collaborating institutions.** (a) The board of regents may indemnify collaborating institutions from claims arising against them

for the gross negligence or wilful misconduct of the university's officers, employees, and agents in the course of their employment, in connection with the university's use, storage, or disposal of materials owned or licensed by a collaborating institution that are purchased by the university from or transferred to the university by the collaborating institution for research or training purposes.

(b) The university shall use the materials transfer agreements recommended and approved by the Association of University Technology Managers to confer the indemnification authorized by this section.

(c) Indemnification claims authorized by this section shall be payable solely from the moneys and property of the university and shall not constitute a general obligation of the State or be secured directly or indirectly by the full faith and credit of the State or the general credit of the State or by any revenues or taxes of the State. The board of regents may obtain loss insurance to cover the liability of the university that may arise under this section; provided that loss insurance for the university shall be at the university's expense.

**§ -112 Contracts for services provided by the research corporation of the University of Hawaii.** (a) Notwithstanding any law to the contrary, when the university determines that neither the university nor another state agency can more effectively or efficiently accomplish the purposes of the sponsored research and training activities, the university shall contract with the research corporation of the University of Hawaii established under section -471 to provide management and other services as described in subsection (b) to support the university's research and training activities. Contracts by the university with the research corporation pursuant to this section shall be limited to sponsored research and training projects; except that university projects supported by funds appropriated by the legislature may also be contracted to the research corporation pursuant to rules adopted by the board of regents.

(b) Management and other support services provided by the research corporation pursuant to this section may include:

- (1) The procurement of goods and services;
- (2) Employment of personnel; and
- (3) The provision of advance funding for research and training contracts and grants.

These services may be provided by the corporation to the university without regard to chapter 76, 78, 89, or 103D.

**§ -113 Commercial enterprises.** Any law to the contrary notwithstanding, the university may engage in commercial enterprises that are related and incidental to the primary purposes of the university as set forth in this chapter, including but not limited to sponsorship of private, cultural, and athletic performances and sale of goods produced by university programs or goods bearing the university logo.

**§ -114 Hawaii history.** The board of regents shall secure the compilation from all available sources and the publication of a revised history of the Hawaiian people; which history, however, shall not be published until after it has been approved either by the legislature or by the trustees of the Hawaiian Historical Society. The board may employ such competent persons as are necessary for the compilation of the volume, purchase the necessary documents, records, and materials for use in the compilation, and make contracts on a royalty basis with publishing firms for the publication of the history. All documents, records, and materials so secured shall be deposited in the state archives after their use by the board.

§ -115 **Depository of war records.** The university is designated as the official depository of material, documents, photographs, and other data relating to Hawaii's part in the war between the United States and Germany, Japan, and Italy.

The university shall secure, collect, and preserve the necessary information, documents, pictures, and other data relating to Hawaii's part in the war.

§ -116 **Child care programs.** (a) The university may establish child care programs through which one or more child care programs for each campus of the university system may be established. The university may operate each child care program with appointed personnel, who are not subject to chapter 76, or by contract with private persons or agencies.

(b) The provision of child care services may be supported with proceeds from the child care programs revolving fund established under section -382, public funds, and private grants and gifts to pay for the expenses of operation, including payment of principal and interest on any obligations incurred.

§ -117 **Participation and membership in the Western Governors University and other educational consortia.** The board of regents may participate in and perform any act related to membership in an educational consortium involving other institutions or jurisdictions that advances the instruction, research, or service mission of the university, including the Western Governors University.

## B. Agriculture

§ -121 **Soil conservation; policy.** The State adopts the policy of cooperating with the federal, state, and other territorial governments and agencies of the United States in carrying out the policy and purposes specified in section 7(a) of the Act of Congress known as the "Soil Conservation and Domestic Allotment Act" (Public Law No. 46, 74th Congress, approved by the President of the United States, April 27, 1935, as amended by Public Law No. 461, 74th Congress, approved February 29, 1936).

§ -122 **Board to act as agency.** The board of regents is designated and authorized to serve as the agency of this State to formulate, submit to the Secretary of Agriculture of the United States, and administer plans, hereinafter referred to as "agricultural plans", pursuant to section 7 of the Soil Conservation and Domestic Allotment Act.

- § -123 **Powers and duties of agency.** (a) The board of regents may:
- (1) Formulate, pursuant to the standards therefor set forth in section 7(a) of the Soil Conservation and Domestic Allotment Act, agricultural plans for this State for each calendar year and, from time to time, make revisions in the agricultural plans as may be necessary to conform to the standards;
  - (2) Using, in formulating and revising the agricultural plans, the assistance of the agricultural extension service and the agricultural experiment station;
  - (3) Designate in the agricultural plans the board of regents as the agency of this State to administer the agricultural plans;
  - (4) Submit the agricultural plans to the Secretary of Agriculture of the United States, prior to such time and in such manner and form as the Secretary of Agriculture may prescribe;
  - (5) Receive on behalf of the State any grants made pursuant to section 7 of the Soil Conservation and Domestic Allotment Act and utilize and

- expend the grants in accordance with such agricultural plans as may have been approved by the Secretary of Agriculture;
- (6) Make provision for the establishment of state, county, and community committees or associations of agricultural producers, organized for such purpose, and for participation by them in the administration of the agricultural plans;
  - (7) Employ such personal services and incur such other expenses as it finds necessary for the efficient exercise of its powers and duties under this section;
  - (8) Use in the administration of the provisions hereof available services and assistance of other agencies of this State and of the agricultural extension service and the agricultural experiment station of the University of Hawaii;
  - (9) Delegate to committees, associations, individuals, corporations, or other agencies of this State such functions in carrying out sections -121 to -122 and this section as it deems suitable, and exercise all other powers and authorities and do any and all other things that it may deem necessary or proper to the performance of its duties and functions hereunder;
  - (10) Provide for the submission of reports to the Secretary of Agriculture as may be deemed requisite, including such reports as may be required to ascertain whether the agricultural plans are being carried out according to their terms;
  - (11) Prescribe rules as may be necessary or expedient for the effective administration of the agricultural plans and ensure the correctness of and make possible the verification of reports as may be required by the terms of the agricultural plans; and
  - (12) Submit to the governor an annual report for each year covering the administration and operation of the program.

(b) The board of regents shall perform its duties and functions as such agency under sections -121 and -122 and this section separately and distinctly from the performance of its duties and functions under any other act or in any other capacity, except that the board may use the services and the assistance of the personnel and faculties normally used by it in the performance of such other functions if it finds that the utilization of the services and assistance is necessary to, or is calculated to assist substantially in, the effective administration of sections -121 to -122 and this section and that the personnel or faculties may be used without interference with the effective performance of such other duties and functions.

§ -124 **Specialist in cooperative organizations.** The university may appoint a specialist in cooperative organizations and may extend the present agriculture extension service work to cooperatives. The specialist shall assist cooperatives in legal, accounting, business, and marketing practices and instruct them in fundamentals of cooperative principles.

§ -125 **Agriculture, forestry, and natural resource management program, University of Hawaii at Hilo.** The board of regents shall establish a program of agriculture, forestry, and natural resource management at the University of Hawaii at Hilo and offer a baccalaureate program.

### C. Career and Technical Education under Federal Aid

§ -131 **State board for career and technical education; designation.** The board of regents is designated as the state board for career and technical education. The chairperson of the board of regents is designated as the chairperson of the state board for career and technical education and the president of the university is designated as the administrative officer of the state board for career and technical education.

§ -132 **Board's power and authority.** The board may cooperate with the United States Department of Education in the administration of the provisions of the Acts of Congress mentioned in section -423, and may do all things necessary to entitle the State to receive the benefits of each of the respective funds appropriated by the Acts including:

- (1) Represent the State in any and all matters arising out of or connected with the administration of the Acts of Congress insofar as the same shall apply to the State;
- (2) Represent the State in any or all matters in reference to the expenditure, distribution, and disbursements of moneys received from the Acts of Congress;
- (3) Designate such colleges, schools, departments, or classes as may be entitled to participate in the benefits of moneys received from the appropriations made in the Acts of Congress as in its judgment and discretion will best subserve the interests of career and technical education in the State and carry out the spirit, purposes, and provisions of the Acts;
- (4) Establish and determine, by general rule, the qualifications to be possessed by persons teaching agricultural, trade, industrial, and home economics subjects in the colleges or schools coming under the provisions of the Acts of Congress in the State; and
- (5) Enforce rules and regulations concerning the granting of certificates and licenses to such teachers and to certificate such teachers.

The board may delegate some of its responsibilities relating to the establishment of qualifications for and certification or licensing of career and technical teachers. The board shall make an annual report to the governor describing the conditions and progress of career and technical education during the year and include therein an itemized statement showing the receipts and expenditures of all moneys used in connection with career and technical education.

§ -133 **Career and technical education coordinating advisory council.** (a) There is established a career and technical education coordinating advisory council which shall serve in an advisory capacity to the board of regents. The council shall consist of eleven members, nine appointed and two ex officio voting members. Of the nine appointed members:

- (1) Three shall be appointed from the board of regents by the chairperson of that body;
- (2) Three shall be appointed from the board of education by the chairperson of that body; and
- (3) Three shall be appointed from the workforce development council by that council.

Of the three members appointed from the workforce development council, one member shall represent management, one member shall represent labor, and the third shall represent the public. Of the two ex officio members, one shall be the president of the university and the other shall be the superintendent of education.

(b) Of the three members first appointed by each appointing authority, other than the chairperson of the board of education, one shall be appointed for two years, one shall be appointed for three years, and one shall be appointed for four years. In the case of the members appointed from the board of education, the terms of such members shall be for their remaining terms as members of the board of education. Upon the expiration of the terms of the first members, their successors shall serve for a term of four years. Vacancies shall be filled by the appropriate appointing authority for the unexpired term.

(c) The council shall elect a chairperson and such other officers as it deems necessary. Section 92-15 shall apply. The members of the council shall serve without compensation but shall be entitled to their travel expenses within the State when attending meetings of the council or when actually engaged in business relating to the work of the council.

## PART II. STUDENTS

### A. Tuition and Fees

§ -141 **Tuition fees; resident, nonresident; other fees.** (a) The board of regents may charge resident and nonresident tuition fees for regular courses of instruction at any University of Hawaii campus, including any community college.

(b) The board may also charge other fees for special programs of instruction, as well as laboratory fees, course fees, fees for student activities, and an information technology user fee. The board may charge other fees for summer session or evening courses, including differential fees for nonresident students.

§ -142 **Residence for tuition purposes; basic rule.** The board of regents shall adopt the necessary rules defining residence for tuition purposes herein; provided that the basic rule shall be that a student shall qualify for the resident tuition fee only if the following criteria are met:

- (1) The adult student, or in the case of a minor student, the student's parents or guardians, has or have been a bona fide resident of this State for at least twelve consecutive months next preceding the student's first day of officially scheduled instruction for any semester or term in which the student is enrolling at the particular college or campus; and
- (2) The adult or minor student has not been claimed as a dependent for tax purposes for at least twelve months next preceding the student's first day of officially scheduled instruction for any semester or term in which the student is enrolling at the particular college or campus by the student's parents or guardians who are nonresidents of the State; provided that this provision shall not apply in cases where the parent claiming the student as a dependent is entitled to do so under a child support order or agreement issued or entered into in conjunction with a divorce proceeding or legal separation agreement and the other parent and the student meet the criteria set forth in paragraph (1).

§ -143 **Public meetings exemption.** In establishing the resident tuition fees and the differential fees for nonresident students, the board of regents shall be exempt from the public notice, public hearing, and gubernatorial approval requirements of chapter 91. The fees shall be established at an open public meeting subject to the requirements of chapter 92; provided that:

- (1) The open public meeting is held during or prior to the semester preceding the semester to which the fees apply; and

- (2) A copy of the schedule of resident tuition fees and the differential fees for nonresident students is filed in the office of the lieutenant governor prior to taking effect.

### B. Scholarship and Assistance Programs

§ -151 **University of Hawaii scholarship and assistance program; power of regents to grant scholarship and assistance.** The board of regents, or its designated representatives, is authorized to grant, modify, or suspend scholarship and assistance. The board may exercise this authority through the University of Hawaii scholarship and assistance special fund established under section -369.

§ -152 **Power of regents to grant tuition waivers.** The board of regents, or its designated representatives, is authorized to grant, modify, or suspend tuition waivers. The board may waive entirely or reduce the tuition fee or any of the other fees for graduate teaching and research assistants. The board may enter into agreements with government and university officials of any other state or foreign country to provide for reciprocal waiver of the nonresident tuition and fee differential. The board may waive the nonresident tuition and fee differential for selected students from Pacific and Asian jurisdictions when their presence would be beneficial to the university or the State. The board may waive entirely or reduce the tuition fee or any of the other fees for students, resident or nonresident. The board shall determine the percentage of allowable tuition and fee waivers for financial need and other university priorities. These tuition waivers and waivers of the nonresident tuition and fee differential shall be awarded in accordance with guidelines established by the board.

§ -153 **Hawaii opportunity program in education.** There is established the Hawaii opportunity program in education (HOPE) to be placed within the University of Hawaii for administrative purposes to support financially needy students, with priority given to students from ethnic groups that are underrepresented in the student population of the university. The university is encouraged to provide tuition waivers and seek private donations for scholarship support for HOPE students.

### C. State Higher Education Loans

§ -161 **State higher education loans; eligibility; amounts.** Eligibility for loans from the state higher education loan fund established under section -370 shall be limited to students at the University of Hawaii or the community colleges of the State who have been residents of the State for at least one year and are enrolled at least half-time in a program that culminates in the award of a degree. The amount to be loaned to a student shall be determined by the board of regents based on need for financial aid, academic promise, and deportment. The maximum amount of loans that a student may receive under the state higher education loan fund shall be an aggregate amount equivalent to those amounts established for the Perkins Loan Program (formerly known as the "National Direct Student Loan Program") authorized under Title IV, Part E, of the Higher Education Act of 1965, as amended.

§ -162 **Repayment of state higher education loans; collection.** (a) All loans made under the state higher education loan fund shall bear interest at five per cent simple interest. Repayment of principal and interest charges shall commence nine months after graduation or after a borrower ceases to be enrolled at least half-time in a degree program and shall be paid in periodic installments within a ten-year period. The university may charge late fees and all other reasonable costs for the



collection of delinquent loans. The board of regents, upon application by the student and upon a showing of good cause, may defer repayment of the loan and commencement of interest. Liability for repayment of a loan shall be canceled upon the death or permanent total disability of the borrower.

(b) The university may spend out of the state higher education loan fund up to two per cent of the total amount of loans outstanding for collection and administrative expenses. In accordance with chapter 103D, the university may enter into written contracts with collection agencies for the purpose of collecting delinquent student loans. All payments collected, exclusive of a collection agency's commissions, shall revert, and be credited, to the state higher education loan fund.

(c) A collection agency that enters into a written contract with the university for the collection of delinquent student loans, pursuant to this section, may collect a commission from the debtor in accordance with the terms of, and up to the amounts authorized in, the written contract.

**§ -163 Capacity of minors in qualifying for state higher education loans.** Any student otherwise qualifying for a loan under the state higher education loan fund shall not be disqualified because the student is under the age of eighteen years, and for the purpose of applying for, receiving, and repaying the loan, any such person shall be deemed to have full legal capacity to act and shall have all rights, powers, privileges, and obligations of an adult with respect thereto.

**§ -164 Rules governing state higher education loan fund.** The board of regents shall have the power, in accordance with chapter 91, to adopt rules necessary for the administration of the state higher education loan fund.

#### **D. Hawaii Educator Loans**

**§ -171 Hawaii educator loans; eligibility; amounts.** There is created the Hawaii educator loan program to be administered by the University of Hawaii, to provide financial support to students who complete a state-approved teacher education program and who agree to teach in the Hawaii public school system. Eligibility shall be awarded by the university to students on a competitive basis. The amount to be loaned to a student shall be determined by the board of regents based on need for financial aid and proof of acceptance into a state-approved teacher education program at the university. The maximum amount of loans that a student may receive under this program shall be an aggregate amount equivalent to tuition payments and costs of textbooks and other instructional materials necessary to complete a state-approved teacher education program.

**§ -172 Repayment of loans; waiver; collection.** (a) All loans made under this subpart shall bear interest at five per cent simple interest. Repayment of principal and interest charges shall commence one year after graduation or three months after a loan recipient ceases to be enrolled in a state-approved teacher education program and shall be paid in periodic installments within a six-year period. The university may charge late fees and all other reasonable costs for the collection of delinquent loans.

(b) Upon a showing of proof that the loan recipient has completed a state-approved teacher education program and is employed as a full-time teacher in the Hawaii public school system, one-tenth of the total amount of the loan and interest shall be waived for every year of the first five years, and the remaining balance shall be waived after the sixth year that a loan recipient teaches in a Hawaii public school in a hard-to-fill position as determined by the superintendent of education, including

special education, regular education shortage categories, or Title 1 schools, and in one of the following capacities:

- (1) As an elementary school teacher teaching in the field of elementary education who has met standards as set forth by the Hawaii teacher standards board; or
- (2) As a secondary school teacher teaching in the subject area that is relevant to the loan recipient's academic major as certified by the department of education who has met standards as set forth by the Hawaii teacher standards board.

(c) Liability for repayment of a loan shall be canceled upon the death or permanent total disability of the loan recipient.

(d) If a loan recipient subject to this section fails to teach in the Hawaii public school system for a minimum of ten consecutive years from the loan recipient's original date of employment with the department of education, excluding sabbatical and other forms of temporary leaves of absence, then the loan recipient shall repay any remaining loan balance at the rate of ten per cent simple interest.

(e) In accordance with chapter 103D, the university may enter into written contracts with collection agencies for the purpose of collecting delinquent student loans. All payments collected, exclusive of a collection agency's commissions, shall revert, and be credited, to the special fund established for the Hawaii educator loan program. A collection agency that enters into a written contract with the university for the collection of delinquent student loans, pursuant to this section, may collect a commission from the debtor in accordance with the terms of, and up to the amounts authorized in, the written contract.

**§ -173 Capacity of minors in qualifying for Hawaii educator loans.**

Any student otherwise qualifying for a loan under the Hawaii educator loan program special fund shall not be disqualified because the student is under the age of eighteen years, and for the purpose of applying for, receiving, and repaying the loan, any such person shall be deemed to have full legal capacity to act and shall have all rights, powers, privileges, and obligations of an adult with respect thereto.

**§ -174 Rules governing Hawaii educator loan program special fund.**

The university may adopt rules to implement the Hawaii educator loan program. The rules shall be adopted pursuant to chapter 91 but shall be exempt from the public notice and public hearing requirements.

**E. Educational Opportunities**

**§ -181 Program of equal educational opportunity; coordinating office of educational services for the disadvantaged.** (a) There is established a program of equal educational opportunity as an integral and major program of the university. The university shall provide monetary and human resources toward developing and planning an equal educational opportunity program.

(b) There is created a coordinating office of educational services for the disadvantaged at the university which shall have the responsibility and authority to coordinate, develop, and evaluate programs of equal educational opportunity.

**§ -182 College-credit equivalency program established; purpose; policies and procedures; eligibility.** (a) There is established at the university and the community colleges a college-credit equivalency program. The purpose of this program is to award college credits to students who are enrolled in a degree or certificate program at the university or at a community college and who have successfully completed, at a high school, business school, trade school, adult

education school, or military training program, courses that are equivalent to courses offered for credit in the University of Hawaii system. Credits may also be awarded for work or other experiences at the discretion of the university.

(b) The university shall be responsible for the establishment of policies and procedures to administer the program. In this regard, the university, among other things, shall prepare and make public the following:

- (1) The list of the high school, business school, trade school, and adult education school courses for which college credits may be earned;
- (2) The number of credits that may be earned for each course; and
- (3) The minimum standards or grades necessary to earn college credits.

(c) All students enrolled in a degree or certificate program at the university or at a community college and who meet the requirements established under subsection (b) shall be eligible and awarded college-credit equivalents.

**§ -183 Running start program.** (a) There is established within the department of education the running start program, to allow eligible students to enroll in any qualified course offered by the University of Hawaii system.

(b) For the purposes of this section:

“Eligible student” means a high school student in the eleventh or twelfth grade who:

- (1) Has passed a standardized test administered by the college that demonstrates the student’s ability to succeed at the college level;
- (2) Is under the age of twenty-one as of September 1 of the school year in which the college course is taken; and
- (3) Has other qualifications deemed appropriate by the department of education or the university; provided that subsequent qualifications do not restrict any student from taking the standardized test.

“Qualified course” means any career and technical education or academic course offered by the University of Hawaii system that also applies to the department of education’s graduation requirements or is otherwise permitted by department of education rule or policy.

(c) All course credits successfully completed pursuant to this section that would otherwise be transferable but for a student’s grade level, shall be transferable to any University of Hawaii system degree granting institution; provided that the student is admitted to the campus where the credit is transferred.

(d) College courses successfully completed under this section shall also satisfy the department of education’s graduation requirements as determined by the department of education pursuant to rule.

(e) This section shall not preclude the department of education and the university from establishing programs by mutual agreement that permit high school students to enroll in college courses.

(f) Every student enrolled in a college course pursuant to this section shall remit appropriate tuition and fees to the university.

## F. Continuing Education

**§ -191 Tuberculosis clearance certification; exemption.** Notwithstanding any law to the contrary, a person wishing to enroll at a campus within the University of Hawaii system solely to participate in a noncredit, short-term course, lasting less than fifteen days, shall not be required to present, as a condition to enrollment or otherwise, a tuberculosis clearance certification.

**PART III. UNIVERSITY PERSONNEL****A. Positions and Compensation**

§ -201 **Exempt personnel.** Personnel of the university not subject to chapter 76 shall be under the direction of the president of the University of Hawaii. The board of regents shall appoint deans, directors, members of the faculty, and other employees as may be required to carry out the purposes of the institution, prescribe their salaries and terms of service when the salaries and terms of service are not specifically fixed by legislative enactment, and make and enforce rules governing sabbatical and professional improvement leaves with or without pay, consistent with the practice of similar institutions in the United States and notwithstanding the laws of the State relating to leaves of absence of the officers and employees of the State.

§ -202 **Faculty; classification schedule.** The board of regents shall classify all members of the faculty of the university including research workers, extension agents, and all personnel engaged in instructional work as referenced in section 76-16, and adopt a classification schedule and compensation plan for these employees.

Annual increases of compensation shall be allowable for efficient service, and the board of regents shall adopt a fair and reasonable plan for rating the efficiency of individual employees affected by this section.

§ -203 **Faculty members; exchange privileges; conditions.** (a) The board of regents may contract for the exchange of members of the faculty of the university with members of the faculties of colleges or universities located without the State or the United States. Local members of the faculty so exchanged shall be paid their regular salaries out of the funds appropriated for the pay of members of the faculty of the university. The qualifications of all members of the faculties of the colleges or universities located without the State or the United States so exchanged shall be equal to those of local members of the faculty exchanged. Any provision of law to the contrary notwithstanding, the requirements of citizenship and residence shall not apply to any member of the faculty coming to the State from any foreign state, country, or territory under any such contract of exchange.

All members of the faculty so exchanged by the State shall furnish their own transportation to and from the state, country, or territory with which exchanged.

(b) No compensation shall be paid by the State to members of the faculties exchanged from colleges or universities located without the State or the United States; provided that in any case where the local exchanged member of the faculty becomes incapacitated or, for any reason, leaves the exchange position permanently, the board may pay the visiting member of the faculty an amount not to exceed the salary rating of the local exchanged member of the faculty, such an arrangement to continue until the end of the period of exchange or until such time as some adjustment satisfactory to the board has been made.

§ -204 **Annual report; executive, managerial, and faculty salaries.** The board of regents shall submit an annual report to the legislature containing the salaries paid to all executive, managerial, and faculty members of the university, including that paid to the president of the university, not fewer than twenty days prior to the convening of each regular session.

**§ -205 University general counsel.** (a) The board of regents may appoint or retain by contract one or more attorneys who are independent of the attorney general, to provide legal services for the university, including:

- (1) Representation of the university in civil actions to which the university is a party, either directly or through the acts or omissions of its officers or employees;
- (2) Advice and assistance to ensure the lawful and efficient administration and operation of the university;
- (3) Review and approval of documents relating to the acquisition of land or interest in land by the university; and
- (4) Any other legal service specified by the board of regents.

The board of regents may fix the compensation of the attorneys appointed pursuant to this section. Attorneys appointed or retained by contract shall be exempt from chapters 76 and 89.

(b) Nothing in this section precludes the board of regents from requesting and securing legal services from the department of the attorney general, for the university, the board of regents or its members, or the university's officers and employees, upon mutual agreement.

**§ -206 Compensation of education laboratory school cafeteria personnel.** The compensation of all cafeteria workers and the cafeteria manager at the education laboratory school cafeteria, or any successor organization or unit, shall be paid out of the general fund of the State. The university shall include, in its budgetary request for each upcoming fiscal period, the amounts necessary to carry out the purposes of this section.

## **PART IV. DIVISIONS, DEPARTMENTS, AND PROGRAMS**

### **A. Community Colleges**

**§ -211 System of community colleges; purpose.** (a) The board of regents shall develop and administer a system of community colleges.

(b) The purposes of community colleges shall be to provide:

- (1) Two-year college transfer and general education programs;
- (2) Two- and four-year career and technical education programs;
- (3) Semiprofessional, career and technical, and continuing education programs; and
- (4) Such other educational programs and services as may be appropriate to such institutions.

(c) The board may confer a corresponding degree or certificate upon the successful completion of any educational program described in subsection (b) to all students who are entitled thereto.

**§ -212 Powers of board.** The board of regents shall have authority to establish and govern community colleges. The board shall have the same powers with respect to the community colleges that it has as to the university in general.

### **B. Teacher Education: College; Institute**

**§ -221 College of education.** The college of education shall be affiliated with the university and shall be under the jurisdiction and management of the board of regents. The board may grant appropriate degrees to properly qualified graduates of the college of education. In establishing the curriculum for the college of

education, the university authorities may obtain the approval of the Hawaii teacher standards board. The mission of the college of education is to:

- (1) Prepare and provide ongoing professional development of teachers, administrators, counselors, and related professionals at undergraduate and graduate levels primarily to meet the needs of Hawaii schools;
- (2) Generate, synthesize, and apply knowledge in education and related fields through teaching, research, and other scholarly activities; and
- (3) Provide service and support to the local, national, and global educational and related communities.

§ -222 **Teacher education coordinating committee.** (a) There is created an advisory committee to be known as the teacher education coordinating committee to identify, study, take action, or make recommendations on matters of education of common interest to the department of education and institutions of higher learning in Hawaii. The membership of the committee shall include the superintendent of education and the dean of the college of education of the University of Hawaii, who shall serve in alternate years as chairperson of the committee with the superintendent acting as the first chairperson, a representative from each accredited teacher training institution in Hawaii, and a representative from the Hawaii teacher standards board. In addition, the superintendent of education and the dean of the college of education may each appoint other members to the committee; provided that the dean of the college of education shall appoint at least two members of the committee from the university who are not within the college of education.

- (b) The committee shall meet at least six times within each calendar year to:
  - (1) Work out problems related to the development of strong teacher training programs at accredited institutions of higher learning in Hawaii; and
  - (2) Identify, study, and discuss educational problems or other educational matters of interest to the committee and to develop findings and make recommendations for the improvement of education in Hawaii.
- (c) The committee shall submit an annual report on its activities to the legislature and may include recommendations for legislative consideration.

§ -223 **Hawaii institute for educational partnerships.** (a) Reforms to the public school system cannot succeed without concomitant reforms to the manner in which teachers are educated. The purpose of this section is to create a link between the public schools and university teacher education programs to ensure that teacher education is focused on the needs of the diverse student populations found within the public school system.

(b) There is established a Hawaii institute for educational partnerships. The institute, in collaboration with the department of education, shall:

- (1) Continually review the system of educating teachers for the purpose of redesigning the teacher education program of the college of education so that it is responsive to the needs of the public school system in Hawaii;
- (2) Develop innovative strategies to effectuate the changes in the teacher education program at the school level; and
- (3) Where appropriate, establish university-school partnerships as the mechanisms by which to implement the innovative strategies developed by the center.

The institute shall submit, prior to the convening of each regular session of the legislature, a report to the board of regents, the board of education, and the legislature outlining its progress in redesigning the teacher education program and the initiation of any university-school partnerships.

### C. Hawaiian Language College

§ -231 **Hawaiian language college; establishment.** There shall be a Hawaiian language college at the University of Hawaii at Hilo. The college shall provide a Hawaiian liberal education program providing education primarily through the Hawaiian language.

§ -232 **Functions.** In addition to providing a quality education primarily through the medium of the Hawaiian language, the Hawaiian language college shall:

- (1) Provide an indigenous language outreach program to involve indigenous language scholars and to maintain and develop the program's Polynesian language database;
- (2) Provide a Hawaiian medium teacher training program incorporating Nawahiokalani'opu'u school and other schools, as appropriate, as laboratory schools; and
- (3) Maintain a Hawaiian language support center with educational specialists in the areas of research, curriculum development, language development, archival work, and educational technology.

### D. School of Law

§ -241 **Law school; establishment.** There shall be a school of law at the University of Hawaii, to be under the direction of a dean or director who shall be appointed by the president with the approval of the board of regents. Subject to the availability of funds, faculty, and facilities, the school shall offer such courses of study as may be deemed appropriate and confer such degrees as may be authorized by the board of regents.

§ -242 **Procurement institute; established.** There is established the procurement institute at the William S. Richardson School of Law, University of Hawaii, to be under the direction of a director who shall be appointed by the dean of the school of law, with the approval of the board of regents. Subject to the availability of funds, faculty, and facilities, the institute shall offer such courses of study as may be deemed appropriate and authorized by the board of regents. The institute shall cooperate with other public and private entities and persons to promote and develop a professional acquisition workforce and to improve and enhance the State's contractor industrial base through education and training. The procurement institute may:

- (1) Conduct and participate in procurement education and training for entry-level and higher-qualified state employees and others, including persons not employed by the State;
- (2) Conduct and promote research, conferences, and studies to improve the procurement process, laws, policies, methods, rules, procedures, and forms relating to state and local government procurement;
- (3) Report on and make recommendations regarding goals, guidelines, innovations, and evaluation of state and local government procurement initiatives; and
- (4) Establish and maintain a procurement library within the State.

### E. Nursing and Dental Hygiene: School; Center

§ -251 **School of nursing and dental hygiene; establishment.** There shall be a school of nursing and dental hygiene as a department of the university, with

such management, faculty, and other personnel as the board of regents may designate.

§ -252 **School of nursing and dental hygiene; functions.** The school of nursing and dental hygiene shall conduct a complete course in nursing leading to the conferring of an appropriate bachelor's degree upon graduation therefrom and sufficient to qualify its graduates as registered nurses. The curriculum of the school of nursing and dental hygiene shall be such as the board of regents may approve and may include subjects outside of the field of nursing as may be deemed consonant with the requirements of a university education and clinical training and practice in hospitals and similar institutions.

§ -253 **Clinical training and practice; board of regents; power to contract.** The board of regents may enter into contracts with any hospital or similar institution, in the State, for the purpose of arranging for clinical training and practice therein for students of the school of nursing and dental hygiene.

§ -254 **Center for nursing; establishment; advisory board.** (a) There is established, within the University of Hawaii school of nursing and dental hygiene, a center for nursing.

(b) The dean of the school of nursing and dental hygiene, or the dean's designee, shall direct the activities of the center for nursing. There shall be an advisory board composed of fifteen members appointed by the governor pursuant to section 26-34 to staggered terms as follows:

- (1) Five members from the business and labor community:
  - (A) One of whom shall represent the Healthcare Association of Hawaii;
  - (B) Two of whom shall represent other business entities; and
  - (C) Two of whom shall represent labor organizations;
- (2) Five members from the nursing profession:
  - (A) One of whom shall represent the American Organization of Nurse Executives;
  - (B) One of whom shall represent the Hawaii Government Employees Association; and
  - (C) Three of whom shall represent the Hawaii Nurses' Association, professional component;
- (3) Two members from among the State's nurse educators:
  - (A) One of whom shall be a doctorally-prepared nurse educator; and
  - (B) The other, a doctorally-prepared nurse researcher; and
- (4) Three members from community agencies or consumer groups with an interest in healthcare.

(c) The members of the advisory board for the center for nursing shall serve without compensation.

§ -255 **Advisory board for the center for nursing; powers and duties.** The advisory board for the center for nursing shall have the powers and duty to:

- (1) Employ an executive director and no more than two other staff members, at least one of whom shall be an independent doctorally-prepared nurse researcher;
- (2) Adopt a mission statement and operational policy;
- (3) Elect a chairperson;
- (4) Establish committees of the board as needed;
- (5) Seek input from individuals and community groups interested in the issue of nursing shortages;



- (6) Implement the major functions of the center for nursing; and
- (7) Seek and accept nonstate funds for carrying out the mission of the center for nursing.

**§ -256 Center for nursing; functions.** The center for nursing shall:

- (1) Collect and analyze data and prepare and disseminate written reports and recommendations regarding the current and future status and trends of the nursing workforce;
- (2) Conduct research on best practices and quality outcomes;
- (3) Develop a plan for implementing strategies to recruit and retain nurses; and
- (4) Research, analyze, and report data related to the retention of the nursing workforce.

**§ -257 Collaboration with the center for nursing.** The University of Hawaii school of nursing and dental hygiene, the state board of nursing, other schools of nursing within the State, professional nursing organizations, employers in the healthcare industry, and labor unions representing nurses and healthcare workers shall collaborate with the center for nursing and provide workforce data to the center for nursing when requested.

## **F. Hawaii Geophysics and Planetology Institute**

**§ -261 Hawaii geophysics and planetology institute; director and staff.**

There shall be a Hawaii geophysics and planetology institute at the university. The institute shall be administered by a director to be appointed by the board of regents upon recommendation by the president. The director of the institute shall appoint the professional members of the staff and other employees. The president and the board of regents shall have the same powers over the institute and its staff as over the university and its faculties.

The institute:

- (1) Shall undertake basic research and training in geophysics and planetology;
- (2) Shall disseminate knowledge of geophysics and planetology affecting Hawaii; and
- (3) To the extent its facilities permit, may serve to apply the results of its research to geophysical problems in the State.

**§ -262 State geophysicists.** The staff of the geophysics and planetology institute shall include a specialist qualified in geology and a specialist qualified in volcanology, or a specialist qualified in both fields (to be designated as state geologist and state volcanologist or state geologist and volcanologist, as appropriate), whose duties shall include consultation with state officials, departments, and agencies concerning possible applications of these fields and research desirable to facilitate such applications. Other state geophysicists may be designated as appropriate in the opinion of the director and the board of regents.

The state geophysicists may undertake applied research required in their respective fields by state officials, departments, and agencies, but their personal conduct of the applied research may be limited by the director, to such an extent as, in the director's opinion, is necessary to ensure the conduct of fundamental research and training required by the long-range interests of the State.

**§ -263 Encouragement of federal assistance.** The governor, the president, and the board of regents are authorized and requested to take any appropriate

action to secure federal assistance in strengthening the geophysics and planetology institute.

### G. Environmental Center

§ -271 **Environmental center; structure and functions.** (a) There is created within the university an environmental center. The center shall assist the director of environmental quality control as provided for under section 341-4.

(b) The center shall be so constituted as to make most effective the contribution of the university to the problems of determining and maintaining optimum environmental quality. Its membership shall be comprised of those members of the university community actively concerned with ecological and environmental problems.

(c) The functions of the center shall be to stimulate, expand, and coordinate education, research, and service efforts of the university related to ecological relationships, natural resources, and environmental quality, with special relation to human needs and social institutions, particularly with regard to the State.

### H. Center for Labor Education and Research

§ -281 **Center for labor education and research; establishment.** (a) There is established at the University of Hawaii, West Oahu campus, the center for labor education and research. The center for labor education and research shall:

- (1) Provide credit and noncredit labor studies courses and labor-related research and educational services for workers and their organizations;
- (2) Provide labor-related education to the public;
- (3) Advise and assist in the development and implementation of labor-related instructional programs, courses, and activities for use within the department of education, including teacher preparation therefor;
- (4) Develop and implement a labor studies degree program or programs in the University of Hawaii system; and
- (5) Serve as the clearinghouse for labor education matters in the State.

(b) The center for labor education and research shall be located in and shall be a part of the University of Hawaii, West Oahu campus. The affairs and operations of the center for labor education and research shall be administered by a director appointed by and responsible to the chancellor of the University of Hawaii, West Oahu campus. The center for labor education and research shall draw on existing personnel within the state government insofar as possible for necessary supplementation. Where bona fide demand for programs and services exceeds the capabilities of the permanent staff as supplemented, additional personnel resources may be acquired on a contract basis without regard to chapter 76. Permanent staff shall be covered by chapter 76 or section -202, as may be appropriate.

(c) The center for labor education and research shall receive the full cooperation of all state agencies in the use of staff members, facilities, and other resources necessary to accomplish the purposes of this subpart.

§ -282 **Center for labor education and research; functions and programs.** (a) In consultation with the labor education advisory council, the center for labor education and research shall:

- (1) Coordinate, arrange for, or conduct evaluation of existing center programs of instruction for refinement, develop new courses of instruction, and plan their implementation on a continuing basis;
- (2) Coordinate, arrange for, or conduct instructional programs, including classes, courses, workshops, seminars, and research studies or projects;

- (3) Coordinate, arrange for, or provide technical assistance to trade unions to improve or implement labor education programs within their organizations;
- (4) Prepare and disseminate educational information and publications on various subjects of concern and interest to workers and their organizations;
- (5) Develop or acquire the means necessary to offer credit and noncredit labor studies programs via distance education throughout the State;
- (6) Develop or acquire and promote the dissemination of labor-related information and programs through the various public media (such as radio, television, newspapers, public and private organizations, and clubs); and
- (7) Coordinate, arrange for, or conduct credit and noncredit teacher preparation classes to enable relevant and reliable department of education instruction in labor-related educational courses, programs, and activities.

(b) Notwithstanding chapters 42F, 103, and 103D, the director of the center for labor education and research may limit the center's contracts for any publication and stationery work that may be necessary to accomplish the aims described in subsection (a) to contractors whose employees are represented by a representative duly elected under applicable federal or state labor laws for collective bargaining purposes.

§ -283 **Labor education advisory council.** There is established a labor education advisory council, consisting of not more than fifteen members, broadly representative of the trade union movement in the State, who shall be appointed by the president of the University of Hawaii. The council shall be advisory to the chancellor of the University of Hawaii, West Oahu campus, on all activities and programs of the center for labor education and research and shall assist the chancellor in the assessment and evaluation of program needs for implementation. Members of the council shall designate its chairperson and shall serve without compensation; provided that actual travel and other expenses incurred in the performance of their duties shall be advanced or reimbursed.

### I. Aquarium and Marine Laboratory

§ -291 **State aquarium.** (a) The Waikiki aquarium is established and designated as the official state aquarium.

(b) The university may contract with a private nonprofit entity for the operation and management of the state aquarium; provided that the entity is a private nonprofit corporation established solely to:

- (1) Manage and improve the exhibits and facilities;
- (2) Conduct education, research, volunteer, fund-raising, and membership programs; and
- (3) Operate concessions of the state aquarium.

(c) The status conferred by subsections (a) and (b) shall not impinge on the ownership of land and improvements which shall remain with the university. All board of regents' policies regarding the use of university facilities shall apply to the state aquarium.

§ -292 **State aquarium; site.** All those certain pieces or parcels of land situated at Waikiki, city and county of Honolulu, used as an aquarium and more fully described in copy survey furnished number 11528 as all of lots 114 to 118 inclusive and portions of lots 113 and 119 of the Kapiolani park lots as described in Executive

Order No. 1817, are set aside for public purposes, to wit: for the purposes of the state aquarium under the direction of the board of regents of the University of Hawaii. The board of regents shall establish and at all times maintain upon such lands the state aquarium for public programs, education, research, and the exhibition to the public of the aquatic life of Hawaii and other regions. The board shall also establish and at all times maintain at the aquarium a marine biological laboratory.

§ -293 **State aquarium admission and user fees.** The board of regents may charge the public a fee for admission to the aquarium and for the use of aquarium facilities and programs. In establishing the fees, the board of regents shall be exempt from the public notice, public hearing, and gubernatorial approval requirements of chapter 91. The fees may be established at an open public meeting subject to the requirements of chapter 92. The fees shall be deposited into the state aquarium special fund established under section -375.

## J. Medical Education Council

§ -301 **Definitions.** As used in this subpart:

“Centers for Medicaid and Medicare Services” means the Centers for Medicaid and Medicare Services within the United States Department of Health and Human Services.

“Council” means the medical education council created under section -303.

“Graduate medical education” means that period of clinical training of a physician following receipt of the medical doctor degree and prior to the beginning of an independent practice of medicine.

“Graduate medical education program” means a graduate medical education training program accredited by the American Council on Graduate Medical Education.

“Healthcare training program” means a healthcare training program that is accredited by a nationally-recognized accrediting body.

§ -302 **Graduate medical education program.** (a) There is created a graduate medical education program to be administered by the medical education council in cooperation with the department of health.

(b) The program shall be funded with moneys received for graduate medical education and deposited into the Hawaii medical education special fund established under section -374.

(c) All funding for the graduate medical education program shall be nonlapsing.

(d) Program moneys shall only be expended if:

(1) Approved by the medical education council; and

(2) Used for graduate medical education in accordance with sections -304 and -305.

§ -303 **Medical education council.** (a) There is established within the University of Hawaii, the medical education council consisting of the following thirteen members:

(1) The dean of the school of medicine at the University of Hawaii;

(2) The dean of the school of nursing and dental hygiene at the University of Hawaii;

(3) The vice dean for academic affairs at the school of medicine who represents graduate medical education at the University of Hawaii;

(4) The director of health or the director’s designated representative;

- (5) The director of the Cancer Research Center of Hawaii; and
  - (6) Eight persons to be appointed by the governor as follows:
    - (A) Three persons each of whom shall represent a different hospital at which accredited graduate medical education programs are conducted;
    - (B) Three persons each whom represent the health professions community;
    - (C) One person who represents the federal healthcare sector; and
    - (D) One person from the general public.
- (b) Except as provided in subsection (a)(1), (2), (3), and (4), no two council members may be employed by or affiliated with the same:
- (1) Institution of higher education;
  - (2) State agency outside of higher education; or
  - (3) Private entity.
- (c) Terms of office of council members shall be as follows:
- (1) Except as provided in paragraph (2), the dean of the school of medicine, dean of the school of nursing and dental hygiene, vice dean for academic affairs of the school of medicine at the University of Hawaii, and the director of health, or the director's designated representative, shall be permanent ex officio members of the council, and the remaining nonpermanent council members shall be appointed to four-year terms of office;
  - (2) Notwithstanding paragraph (1), the governor at the time of the initial appointment shall reduce the terms of four nonpermanent council members to two years to ensure that approximately half of the nonpermanent council members are appointed every two years; and
  - (3) If a vacancy occurs in the membership for any reason, the replacement shall be appointed by the governor for the unexpired term in the same manner as the original appointment was made.
- (d) The dean of the school of medicine at the University of Hawaii shall chair the council. The council shall annually elect a vice chair from among the members of the council.
- (e) All council members shall have voting rights. A majority of the council members shall constitute a quorum. The action of a majority of a quorum shall be the action of the council.
- (f) Per diem and expenses incurred in the performance of official duties may be paid to a council member who:
- (1) Is not a government employee; or
  - (2) Is a government employee, but does not receive salary, per diem, or expenses from the council member's employing unit for service to the council.
- A council member may decline to receive per diem and expenses for service to the council.

**§ -304 Council duties.** The medical education council shall:

- (1) Conduct a comprehensive analysis of the healthcare workforce requirements of the State for the present and the future, focusing in particular on the State's need for physicians;
- (2) Conduct a comprehensive assessment of the State's healthcare training programs, focusing in particular on graduate medical education programs and their role in and ability to meet the healthcare workforce requirements identified by the council;

- (3) Recommend to the legislature and the board of regents changes in or additions to the healthcare training programs in the State identified by the council's assessment;
- (4) Work with other entities and state agencies as necessary, develop a plan to ensure the adequate funding of healthcare training programs in the State, with an emphasis on graduate medical education programs, and after consultation with the legislature and the board of regents, implement the plan. The plan shall specify the funding sources for healthcare training programs and establish the methodology for funding disbursement. Funds shall be expended for the types of costs normally associated with healthcare training programs, including but not limited to physician salaries and other operating and administrative costs. The plan may include the submission of an application in accordance with federal law for a demonstration project to the Centers for Medicaid and Medicare Services, for the purpose of receiving and disbursing federal funds for direct and indirect graduate medical education expenses;
- (5) Seek funding from public sources, including state and federal government, and private sources to support the plan required in paragraph (4);
- (6) Monitor the implementation and effectiveness of the plan required in paragraph (4), making such modifications as may be required by future developments and changing needs and after consulting with the legislature and the board of regents, as appropriate; and
- (7) Submit a summary report to the legislature no later than twenty days before the convening of each regular session, of the expenditures of program moneys authorized by the council under this subpart.

§ -305 **Council powers.** The medical education council may:

- (1) Conduct surveys, with the assistance of the department of health and the department of commerce and consumer affairs, to assess and meet changing market and education needs;
- (2) Appoint advisory committees of broad representation on interdisciplinary clinical education, workforce mix planning and projections, funding mechanisms, and other topics as is necessary;
- (3) Use federal moneys for necessary administrative expenses to carry out its duties and powers as permitted by federal law;
- (4) Distribute program moneys in accordance with this subpart; provided that any expenditures authorized shall be for a public purpose and shall not be subject to chapters 42F, 103, 103D, and 103F;
- (5) Hire employees not subject to chapters 76 and 89 necessary to carry out its duties under this subpart; and
- (6) Adopt rules in accordance with chapter 91, necessary to carry out the purposes of this subpart.

### **K. Special Medical Residency Program**

§ -311 **Findings and purpose.** The legislature finds that the limited supply of physicians and the attractiveness of private practice inhibit the efforts of the department of health to provide primary medical care in certain rural communities of the State and lessen the ability of the department of public safety to recruit physicians to serve in correctional facilities. The legislature further finds that an opportunity should be made available to attract physicians to fill positions in the department of health and the department of public safety.

The purpose of this subpart is to establish an innovative program that seeks to provide an opportunity for physicians to serve with the State and, consequently,

ease the difficulty of the department of health and the department of public safety in recruiting physicians. This subpart does not change the standards of any medical residency program or affect the existing relationship between the school of medicine of the University of Hawaii and the various hospitals that take part in any residency program.

§ -312 **Qualifications for residency program.** The school of medicine of the University of Hawaii shall recommend that two positions within the University of Hawaii medical residency program be filled each year, in accordance with this subpart, by persons who have the necessary qualifications, other than the qualification of residency training, to take the examination for licensure as physicians under chapter 453 or osteopathic physicians under chapter 460 and who volunteer to enter into contracts under section -313, regardless of whether they are graduates of the school of medicine of the University of Hawaii. The department of public safety and the department of health shall notify the school of medicine of the type of physicians or osteopathic physicians needed by the correctional facilities and by rural communities. The school of medicine shall establish procedures to provide for applications by, and selection of, persons who are qualified and interested to fill the positions.

§ -313 **Contract necessary for filling of positions.** In order to fill a position under this subpart, a person shall enter into a contract with the school of medicine of the University of Hawaii stating that the person:

- (1) Agrees to participate in the residency program for the minimum period required to qualify for the licensure examination under chapter 453 or 460;
- (2) Agrees to obtain a permanent license to practice medicine and surgery under chapter 453 or osteopathy under chapter 460, as soon as possible following termination of participation in the residency program;
- (3) Agrees to serve for two years as:
  - (A) An officer or employee of the department of public safety who is based in a correctional facility and whose normal course of duty requires medical treatment of inmates of the facility, another correctional facility, or both; or
  - (B) An officer or employee of the department of health who is employed to provide primary medical care to residents of and to be based in a rural community with a shortage of physicians; and
- (4) Agrees to commence fulfilling the requirement under paragraph (3) immediately following the termination of participation in the residency program and licensure.

§ -314 **Penalty for breach of contract.** A person who is placed in the residency program under this subpart, but who breaches any term of the contract under section -313, shall pay to the State damages of \$10,000; provided that a contract shall not be deemed breached if the person has obtained a permanent license to practice medicine and surgery under chapter 453 or osteopathy under chapter 460, but could not fulfill the requirements of section -313(3) and (4) because no employment vacancy existed in the correctional facilities of the department of public safety or no shortage of physicians or osteopathic physicians existed in any rural community and the department of public safety or the department of health, as applicable, certifies that no employment vacancy or shortage existed.

§ -315 **Residency program; defined.** For the purpose of this subpart, "residency program" means a graduate medical education program in a hospital in this State that is accredited as a medical school residency program by the school of

medicine of the University of Hawaii. The school of medicine may develop a special residency program for the purpose of this subpart; provided that the program, upon completion by the person, qualifies the person to take the licensure examination under chapter 453 or 460.

L. [Reserved]

M. Other Special Medical or Nursing Programs

§ -331 **Family practice residency program; established.** (a) The school of medicine of the University of Hawaii shall develop an accredited family practice residency program with a curriculum that includes opportunities for residents to participate in residency training at designated accredited training sites in rural and medically under-served communities in the State. In developing the program, the following shall be considered:

- (1) The use of compensated and volunteer faculty, including physicians residing in the training community, to instruct and supervise participants in the program;
- (2) The provision of faculty development training for community physicians assisting in a voluntary capacity;
- (3) The provision of inpatient, outpatient, and emergency room training;
- (4) The coordination of patient care with ancillary care services, such as occupational therapy, physical therapy, respiratory therapy, and social services; and
- (5) The provision of housing accommodations for participants in close proximity to the training site.

(b) The residency program and the training component incorporated therein shall meet the requirements necessary to achieve and maintain accreditation with the accreditation committee for graduate medical education and the residency review committee for family practice. The program curriculum shall be developed to provide participants with the knowledge, training, and skills they require to be eligible to take the board certification examination offered by the American Board of Family Practice.

§ -332 **International exchange program for health-related tourism.** There is established an international exchange program for medical and nursing students within the school of medicine of the University of Hawaii and the University of Hawaii school of nursing and dental hygiene that shall focus on Hawaii's role in international medical and nursing education, training, research, and information sharing. The school of medicine and the school of nursing and dental hygiene, in cooperation with the school of public health and the school of travel industry management, shall develop a plan for the development and promotion of Hawaii's healthcare expertise to be coordinated with the State's initiative to promote health-related tourism.

N. Other Special Programs

§ -336 **Food and beverage; courses of instruction.** Chapter 281 or any other law to the contrary notwithstanding, the university may offer and conduct courses of instruction in food and beverage control, club management, and classical food and beverage management, which include wine tasting, through any campus of the university including the community colleges, and shall admit qualified students to the courses even if the students are below the age of eighteen.



## PART V. FINANCIAL STRUCTURE

### A. Budget Preparation and Administration

§ -341 **Benchmarks; annual budget requests; biennial reports.** (a) The board of regents shall adopt benchmarks to expand and develop the university to become a statewide campus that provides Hawaii with a higher education system designed to meet the future needs and demands of the citizens of the State and capitalize on the university's unique resources and location to become an international educational, research, and service center known both in the United States and throughout the Pacific and Asian countries. The benchmarks shall include but not be limited to:

- (1) Expanding access to educational opportunity throughout the State;
- (2) Striving for excellence in undergraduate education;
- (3) Requiring the university to continue to gain prominence in research and distance learning;
- (4) Revitalizing services to the State;
- (5) Enhancing the international role of the university; and
- (6) Maintaining diversity by clarifying campus missions and coordinating campus plans.

(b) The board of regents shall apply these benchmarks in the development of their annual budget request to the legislature and adoption of tuition schedules.

(c) The university shall conduct a periodic review of all instruction, organized research, public service, academic support, student services, and institutional support programs at each campus to determine whether the programs are operating for the purposes originally established and not inconsistent with the benchmarks adopted pursuant to subsection (a). The university shall submit a report of its findings to the legislature no later than twenty days prior to the convening of the legislature in the second year of each fiscal biennium.

§ -342 **Budget request computation; reporting of exempt fees of scholarship holders.** In computing its budget requests, the board of regents shall not show amounts of tuition and registration fees from which holders of scholarships are exempted. These amounts shall be reported for information purposes to the department of budget and finance but shall not be included in the statement of university income.

§ -343 **Appropriations; accounts; depositories.** Moneys appropriated by the legislature for the university shall be payable by the director of finance, upon vouchers approved by the board of regents or by any officer elected or appointed by the board under section -105 and authorized by the board to approve such vouchers on behalf of the board. All moneys received by or on behalf of the board or the university shall be deposited with the director of finance; except that any moneys received from the federal government or from private contributions shall be deposited and accounted for in accordance with conditions established by the agencies or persons from whom the moneys are received and except that, with the concurrence of the director of finance, moneys received from the federal government for research, training, and other related purposes of a transitory nature and moneys in trust, special, or revolving funds administered by the university may be deposited in depositories other than the state treasury; provided that the university informs the director of finance of the depositories in which moneys from the funds have been deposited and submits copies of annual statements from each of the depositories in which the moneys from the funds are deposited. All income from tuition and fees charged for regular courses of instruction and tuition related course and fee charges

against students shall be deposited to the credit of the University of Hawaii tuition and fees special fund pursuant to section -363. Income from university projects as defined and described in section -377 and sections -431 to -444, may be credited to special or other funds.

§ -344 **Special and revolving funds; expenditures in excess of appropriations.** In any fiscal year if the amount of revenues deposited into a special or revolving fund of the university exceeds the amount appropriated from that fund for that year, the president may approve expenditures in excess of the amount appropriated, up to the amount by which revenues for that fund exceed the appropriations from that fund for a fiscal year.

§ -345 **Special and revolving funds; management.** In managing special and revolving funds under its control, the board of regents shall ensure that:

- (1) The purposes for which special and revolving funds are expended, encumbered, or transferred benefit those upon whom fees and charges are imposed through these funds; and
- (2) Fees and charges are fair and equitable with respect to the level and quality of services provided to those upon whom fees and charges are imposed.

§ -346 **Special and revolving funds; fees and charges; public meetings exemption.** In establishing or amending fees or charges that generate receipts for deposit into any University of Hawaii special or revolving fund, the board of regents shall be exempted from the public notice, public hearing, and gubernatorial approval requirements of chapter 91. The fees and charges may be established at an open meeting subject to the requirements of chapter 92. These fees and charges may include laboratory fees, special instructional fees, fees for admission to events, rental rates for facilities, equipment, or real property, and services provided to other government agencies and to the public.

§ -347 **Special and revolving funds; annual report; expenditures in excess of appropriations.** (a) The university shall annually provide to the legislature, at least twenty days prior to the convening of the regular session, an itemized account of the income to and the expenditure from each university special and revolving fund during the previous fiscal year.

(b) The report shall also include all expenditures in excess of each fund's appropriation for each fiscal year.

(c) The itemized account of income and expenditures required under this section shall be in addition to any other item for reporting that the legislature may specifically require under the law establishing the special or revolving fund.

## B. General Funds

§ -351 **General fund budget appropriations; formulation.** (a) The general fund budget appropriations for the university shall be an amount not less than three times and not greater than five times the amount of regular tuition and related fee revenues estimated for that fiscal year.

(b) Any general fund budget appropriation for the university for operating purposes for any fiscal year shall include the consideration of:

- (1) The fiscal condition of the State;
- (2) Enrollment;
- (3) Access to educational opportunity;
- (4) The mix of resident and nonresident students; and

(5) Community service and noninstruction programs.

(c) No revenue received by the university pursuant to the University of Hawaii tuition and fees special fund established under section -363 may be used by the governor or the director of finance as a justification for reducing any budget request or allotment to the university unless the university requests such a reduction.

### C. Special Funds

**§ -361 University of Hawaii risk management special fund.** (a) There is established the University of Hawaii risk management special fund. The following may be deposited into the special fund:

- (1) Appropriations by the legislature;
- (2) Assessments for risk management costs as applicable against any funds of the university;
- (3) Moneys received from the settlement of claims or losses of the university that are not contractually or otherwise obligated for other purposes; and
- (4) Moneys received pursuant to an insurance policy.

(b) Notwithstanding any other law to the contrary, the university may transfer funds at its disposal into the special fund to be expended for the purposes provided herein.

(c) Revenues deposited into the special fund may be expended by the university for costs and expenses associated with the administration and operation of the risk management program, including but not limited to insurance premiums, retention payments, claims administration and operation, settlements, payment of judgments, other obligations, and legal fees and costs.

(d) The board of regents shall develop internal policies and procedures for the management of risk at the university that are consistent with the goals of public accountability.

**§ -362 University of Hawaii at Manoa malpractice special fund.** (a) There is established the University of Hawaii at Manoa malpractice special fund, which shall be used for costs arising from the defense and settlement of claims against the university, its students, or its faculty for professional malpractice in programs that provide professional services, including but not limited to clinical medicine, nursing, and law; provided that this fund shall not be used to fund settlements funded through professional liability insurance or through special appropriations of the legislature.

(b) The university may establish appropriate charges and fees to individuals who are provided professional liability coverage under this section, the proceeds of which shall be deposited in accounts and credited to the University of Hawaii at Manoa malpractice special fund.

**§ -363 University of Hawaii tuition and fees special fund.** (a) There is established the University of Hawaii tuition and fees special fund into which shall be deposited all revenue collected by the university for regular, summer, and continuing education credit tuition, tuition-related course and fee charges, and any other charges to students, except as provided by law. Moneys deposited into the fund shall be expended to maintain or improve the university's programs and operations and shall not be:

- (1) Used as a justification for reducing any budget request or allotment to the university unless the university requests such a reduction;
- (2) Transferred unless otherwise authorized by the legislature; and

- (3) Restricted by the governor or the director of finance without the prior approval of the legislature.

Any rule, policy, or action of any agency or individual in contravention of this subsection shall be void as against public policy.

(b) Any law to the contrary notwithstanding, the board of regents may authorize expenditures of up to \$3,000,000 annually, excluding in-kind services, from this fund for the purposes of promoting alumni relations and generating private donations for deposit into the University of Hawaii Foundation for the purposes of the university. Any expenditure authorized pursuant to this subsection shall be for a public purpose and shall not be subject to chapters 42F, 103, 103D, and 103F. The university shall submit a comprehensive report to the legislature detailing the use of any funds authorized by the board under this subsection no later than twenty days prior to the convening of each regular session.

The report shall:

- (1) Identify each department of the University of Hawaii Foundation supported by moneys from the fund;
- (2) Describe the purposes and activities of each department identified in paragraph (1) and how it participates in fundraising activities and benefits the university;
- (3) Provide the total expenditures of each department identified in paragraph (1) by primary expense categories;
- (4) Identify all moneys from the fund transferred to any fund of the university and provide a justification of how these moneys are used to benefit the university;
- (5) Provide a financial summary of the operating activities of the University of Hawaii Foundation, including revenues and expenditures by major reporting categories; and
- (6) Identify amounts and purposes of all expenditures from the University of Hawaii support fund.

(c) Any law to the contrary notwithstanding, the university may transfer funds from the University of Hawaii tuition and fees special fund into the scholarship and assistance special fund established pursuant to section -369.

**§ -364 Systemwide information technology and services special fund.**

There is established the systemwide information technology and services special fund, from which all moneys shall be used in support of systemwide information technology and services including personnel, equipment costs, and other expenses, as well as planning, design, and implementation of information technology infrastructure within the university. All moneys for the fund shall be provided from revenues collected from users of information technology and services and any information technology user fee established pursuant to section -141.

**§ -365 Library special fund.** There is established a library special fund for the libraries of the University of Hawaii into which shall be deposited all fines, fees, and other revenue derived from the libraries' operations. Moneys deposited in this fund may be expended to replace or repair lost, damaged, stolen, or outdated books, serials, and periodicals or to support and improve the services provided by the libraries. The amounts allocated to each campus library from the special fund shall be proportionate to the amount of revenues generated by each library.

**§ -366 University of Hawaii community services special fund.** (a) There is established the University of Hawaii community services special fund. Except as otherwise provided by law, all revenues, including interest, derived and collected from the university's provision of public service programs shall be deposited into the

University of Hawaii community services special fund. The university may establish and collect fees and charges for public service programs. All revenues deposited into the University of Hawaii community services special fund shall be used exclusively for the costs of providing public service programs. The university may establish accounts under the community services special fund to facilitate the administration of this fund among the various campuses and operating units of the University of Hawaii system. All expenditures from this fund shall be subject to legislative appropriation.

(b) As used in this section, "public service programs" means:

- (1) Noncredit educational programs in professional development and training, personal growth, and cultural enrichment; and
- (2) Cooperative extension and consultative services.

**§ -367 University of Hawaii auxiliary enterprises special fund.** (a) There is established the University of Hawaii auxiliary enterprises special fund. Except as otherwise provided by law, all revenues, including interest, derived and collected from the university's provision of auxiliary services shall be deposited into the University of Hawaii auxiliary enterprises special fund and shall be expended solely for the costs of providing these services. The university may establish and collect fees and charges for the costs of providing these services. The university also may transfer other funds into the University of Hawaii auxiliary enterprises special fund to offset the cost of these services. The university may establish accounts under the University of Hawaii auxiliary enterprises special fund to facilitate the administration of this fund among the various campuses and operating units of the University of Hawaii system. All expenditures from this fund shall be subject to legislative appropriation.

(b) As used in this section, "auxiliary services" means those services provided by the university to students, faculty, staff, and others that are ancillary to, but facilitate the instruction, research, and public service missions of the university and may include food services, transportation services, counseling and guidance, and laboratory animal services.

**§ -368 Western Governors University special fund.** There is established a Western Governors University special fund into which shall be deposited all revenues derived from the State's participation in the Western Governors University, except University of Hawaii income from tuition and fees charged for regular courses of instruction and tuition-related course and fee charges to students. The fund shall be administered by the board of regents of the University of Hawaii and shall be used for the State's membership and participation in the Western Governors University.

**§ -369 University of Hawaii scholarship and assistance special fund.** (a) There is established the University of Hawaii scholarship and assistance special fund to be administered by the University of Hawaii. The special fund shall be administered pursuant to the authority of the board of regents to grant, modify, or suspend the scholarship and assistance under section -151. This fund shall be used to provide financial assistance to qualified students enrolled at any campus of the University of Hawaii.

(b) Revenues deposited into this fund shall include but not be limited to state, federal, and private funds and funds transferred by the university from the University of Hawaii tuition and fees special fund pursuant to section -363.

(c) The annual report for the special fund shall include but not be limited to the number of tuition waivers, scholarships, and stipends. The report shall also include but not be limited to the number of tuition waivers granted under section

-153 through the Hawaii opportunity program in education. The report shall also include recommendations as appropriate to the legislature on all tuition waivers.

(d) This fund is not intended to provide loans or keep track of payback provisions.

§ -370 **State higher education loan fund.** There is established a special fund to be known as the state higher education loan fund. The fund shall be a revolving fund and all interest and payments received on account of principal shall be credited to the fund. The fund shall be administered by the board of regents and shall be disbursed to needy students that meet eligibility requirements under section -161 pursuant to rules adopted by the board.

§ -371 **Hawaii educator loan program special fund.** There is established the Hawaii educator loan program special fund, for the purpose of providing loans pursuant to section -171. The following may be deposited into the special fund: appropriations made by the legislature, private contributions, repayment of loans, including interest and payments received on account of principal, and moneys from other sources; provided that:

- (1) Moneys on balance in the special fund at the close of each fiscal year shall remain in that fund and shall not lapse to the credit of the general fund; and
- (2) An amount from the special fund not exceeding five per cent of the total amount of outstanding loans may be set by the university to be used for administrative expenses incurred in administering the special fund.

§ -372 **Community colleges special fund.** (a) Section -343 notwithstanding, there is established a community colleges special fund to receive, disburse, and account for funds of programs and activities of the community colleges, including but not limited to off-campus programs, summer session programs, overseas programs, evening sessions, study abroad, exchange programs, cultural enrichment programs, and consultative services that help make available the resources of the community colleges to the communities they serve.

(b) The special fund may include deposits from:

- (1) The University of Hawaii tuition and fees special fund established in section -363;
- (2) Tuition, fees, and charges for affiliated instructional, training, and public service courses and programs; and
- (3) Fees, fines, and other money collected for:
  - (A) Student health;
  - (B) Transcript and diploma;
  - (C) Library;
  - (D) Facility use;
  - (E) Child care;
  - (F) Auxiliary enterprises;
  - (G) Alumni; and
  - (H) Other related activities.

§ -373 **Center for nursing special fund.** There is established a center for nursing special fund into which shall be deposited any legislative appropriations, federal or private grants, and any other funds collected for the purposes of the center for nursing established under section -254. The fund shall be administered by the university, and moneys in the fund shall be expended to support the center's activities.

§ -374 **Hawaii medical education special fund.** There is established a Hawaii medical education special fund, into which shall be deposited all funds received by the medical education council, including:

- (1) Moneys from the federal Centers for Medicaid and Medicare Services or other federal agencies;
- (2) State appropriations; and
- (3) Grants, contracts, donations, or private contributions.

The fund shall be administered by the university. Moneys deposited in the fund shall be expended by the university for the purposes of the graduate medical education program established under section -302.

§ -375 **State aquarium special fund.** There is established the state aquarium special fund into which shall be deposited all revenues derived from all fees for admission and all fees for the use of aquarium facilities and programs collected in conjunction with the operation of the state aquarium. The special fund may be deposited in depositories other than the state treasury; provided that the university:

- (1) Informs the director of finance of the depositories in which moneys from the special fund have been deposited; and
- (2) Submits copies of annual statements from each of the depositories in which the moneys from the special fund are deposited.

Moneys deposited in this fund shall be expended for the operation of the state aquarium.

§ -376 **University of Hawaii-West Oahu special fund.** (a) There is established the University of Hawaii-West Oahu special fund. The proceeds of the special fund shall be used for the following purposes:

- (1) Planning, land acquisition, design, construction, and equipment necessary for the development of the permanent campus of the University of Hawaii-West Oahu in Kapolei; and
- (2) Planning, land acquisition, design, improvement, and construction of infrastructure and other public or common facilities necessary for the development of the permanent campus of the University of Hawaii-West Oahu in Kapolei.

(b) The following shall be deposited into the special fund:

- (1) Appropriations by the legislature to the special fund;
- (2) All net proceeds from the sale of public lands, all net rents from leases, licenses, and permits, or all net proceeds derived from development rights for public lands:
  - (A) Proposed for large lot subdivision as a five hundred acre parcel and designated as Lot 10077 in Land Court Application 1069; and
  - (B) Obtained from the Campbell Estate in the land exchange described in section 2 of Act 294, Session Laws of Hawaii 1996, located mauka of the H-1 Freeway and consisting of nine hundred forty-one acres, more or less; and
- (3) Interest earned or accrued on moneys in the special fund.

(c) The fund shall be managed by the university, which shall also make expenditures from the fund.

(d) Notwithstanding any other law to the contrary, no moneys from the special fund may be expended for any purposes other than the purposes set forth herein unless otherwise approved by the legislature.

§ -377 **University revenue-undertakings fund.** (a) There is hereby created a special fund to be administered by the university and shall be known as the

university revenue-undertakings fund, into which all revenue derived from a university project or university system under subpart A of part VI shall be deposited. The university may deposit other revenue of the university into the fund. At the direction of the board, there may be established such accounts in the university revenue-undertakings fund as required by the resolution or resolutions authorizing revenue bonds. In the event that revenue bonds are issued under subpart A of part VI payable from the revenues of a university parking unit or the revenues of a university system that includes a university parking unit, the board in the resolution or resolutions authorizing such revenue bonds may direct that all or any part of the moneys required by sections -405 and -452 to be paid into the university parking revolving fund created by section -405 shall be deposited in the university revenue-undertakings fund in lieu of being deposited in the university parking revolving fund, and thereafter all such moneys or such part thereof as the board has directed shall be deposited in the university revenue-undertakings fund in lieu of being deposited in the university parking revolving fund. All moneys in the university revenue-undertakings fund are appropriated and shall be applied in accordance with the provisions of the resolution or resolutions of the board authorizing the issuance of revenue bonds under subpart A of part VI:

- (1) To provide for all costs of construction, operation, repair, and maintenance of university projects or university systems, including reserves therefor;
- (2) To pay when due all revenue bonds and interest thereon, for the payment of which the revenue is or has been pledged, charged, or otherwise encumbered, including reserves therefor;
- (3) To reimburse the university for all moneys advanced to pay the expenses incurred in making the preparation for the initial issuance of revenue bonds under subpart A of part VI;
- (4) To reimburse the general fund of the State for all bond requirements for general obligation bonds that are or shall have been issued for a university project or university system, or to refund any of those general obligation bonds, except insofar as the obligation of reimbursement has been or shall be canceled by the legislature, the bond requirements being the interest on term and serial bonds, sinking fund for term bonds, and principal of serial bonds maturing the following year;
- (5) To provide a reserve for betterments and improvements to, and renewals and replacements of, university projects or university systems. If adequate provision has been made for all the foregoing purposes, and if permitted by the covenants in the resolution or resolutions authorizing the issuance of revenue bonds under subpart A of part VI, any surplus moneys remaining in the university revenue-undertakings fund at the end of any fiscal year may be expended by the board in subsequent years in furtherance of any or all of the purposes of the university.

(b) The following terms used in this section shall be as defined in section -431: "board", "cost of construction", "maintenance", "reserves", "revenue bonds", "revenue of the university project or university system", "university", "university parking unit", "university project", and "university system".

#### D. Revolving Funds

**§ -381 University of Hawaii commercial enterprises revolving fund.**

There is established the University of Hawaii commercial enterprises revolving fund into which shall be deposited all revenues derived from the operation of commercial enterprises by university programs. Revenues deposited into this account may be



expended by the university for all costs and expenses associated with the operation of the enterprises, including hiring personnel, renovating commercial space, and purchasing merchandise, supplies, and equipment, without regard to chapters 76, 78, 89, 103, and 103D. Revenues not expended as provided in this section may be transferred to other university funds to be expended for the general benefit of the university.

§ -382 **Child care programs revolving fund.** There is established a child care programs revolving fund for the operation of child care programs established under section -116 and the construction and renovation of child care centers established by the University of Hawaii. Fees charged for child care at child care programs, proceeds from donations to the university for child care programs, and proceeds from loans or other instruments of indebtedness for the construction or renovation of child care centers shall be deposited into the revolving fund. Expenditures from the revolving fund shall be made for the operation of child care programs and payment of principal and interest on obligations incurred for the construction or renovation of child care centers.

§ -383 **Research and training revolving fund.** (a) There is established a University of Hawaii research and training revolving fund into which shall be deposited one hundred per cent of the total amount of indirect overhead revenues generated by the university from research and training programs. The board of regents is authorized to expend one hundred per cent of the revenues deposited in the fund for:

- (1) Research and training purposes that may result in additional research and training grants and contracts;
- (2) Facilitating research and training at the university; and
- (3) Further deposit into the discoveries and inventions revolving fund and the University of Hawaii housing assistance revolving fund.

(b) The annual report required to be made for this revolving fund shall include but not be limited to a breakdown of travel expenses.

(c) Notwithstanding sections -107, -384, and -388 to the contrary, the board of regents or its designee, may establish a separate account within the research and training revolving fund for the purpose of providing advance funding to meet reimbursable costs incurred in connection with federally financed research and training projects. Any reimbursement received as a result of providing advance funding shall be deposited into the research and training revolving fund to be used for the purpose of meeting reimbursable costs incurred in connection with federally financed projects.

(d) Revenues deposited into the fund shall not be used as a basis for reducing any current or future budget request or allotment to the university unless the university requests such a reduction.

§ -384 **Discoveries and inventions revolving fund.** There is established a discoveries and inventions revolving fund into which shall be deposited a portion of the total indirect overhead funds generated by the university for research and training purposes in the prior fiscal year, as determined by the board of regents. Appropriations by the legislature subject to the approval of the governor, proceeds from the commercial exploitation of inventions and intellectual property developed at the university, gifts, donations, fees collected, and grants from public agencies and private persons may also be deposited into the fund for the purposes of supporting innovation and research commercialization and the patenting, copyrighting, licensing, and marketing of discoveries, inventions, and technologies developed at the university. The fund shall be used to develop technologies that have potential

commercial value, support the administration of technology transfer activities, and facilitate economic development through education and research undertaken at the university.

§ -385 **Student health center revolving fund.** There is established the student health center revolving fund for the student health center from which shall be paid the cost of operations of the student health center services and that shall be replenished through charges made for medical services and other related goods and services or through transfers from other accounts or funds.

§ -386 **Transcript and diploma revolving fund.** There is established the transcript and diploma revolving fund that shall be used to defray the cost of transcripts and diplomas and that shall be replenished through charges made for transcripts and diplomas or through transfers from other accounts or funds.

§ -387 **University of Hawaii student activities revolving fund.** (a) There is established the University of Hawaii student activities revolving fund into which shall be deposited all funds assessed as compulsory student activity fees and collected by the University of Hawaii on behalf of chartered student organizations and student activity programs of the several campuses of the University of Hawaii system. All revenues received by chartered student organizations and student activity programs from student activities and programs, except those revenues to which other special funds have prior claim, shall also be deposited into the revolving fund.

(b) Separate accounts shall be maintained for each chartered student organization and student activity program. Funds from the accounts may be withdrawn and expended by each respective chartered student organization or student activity program for any purpose that it deems necessary and proper to carry out and achieve its educational responsibilities, programs, and related activities; provided that approval for the expenditure is first obtained from the board of regents or its designated representative, except that approval is not required for expenditures for the purchase of flowers, leis, food, refreshments, and prizes if the purchases do not exceed an amount determined by policies adopted by the board of regents; and provided further that the amount shall not exceed the funds available to any chartered student organization or student activity program annually.

(c) Other laws to the contrary notwithstanding, any chartered student organization may be permitted to withdraw and expend funds from the special accounts to employ or retain, by contract or otherwise, an attorney or attorneys only for the purpose of defending such organization in any litigation. Any chartered student organization specifically organized to provide student publications or broadcast communications may also be permitted to withdraw and expend funds from the special accounts to employ or retain, by contract or otherwise, an attorney for the purpose of rendering legal advice to avoid lawsuits. The expenditures in this subsection shall be approved by, and in accordance with policies adopted by, the board of regents. No funds expended under this subsection may be used to defend chartered student organizations for any wilful or malicious act or to pay for any claim for loss or damage arising from the activities of the chartered student organizations, including costs, expenses, and liabilities incurred in connection with any claim or proceeding brought against a chartered student organization for damages resulting from the act or omission of a chartered student organization or any member thereof. All moneys received for the University of Hawaii student activities revolving fund shall be deposited in a depository maintained by the university in accordance with policies that shall be adopted by the board of regents.

§ -388 **University of Hawaii housing assistance revolving fund.** There is established the University of Hawaii housing assistance revolving fund into which shall be deposited a portion of the total indirect overhead funds generated by the university for research and training purposes in the prior fiscal year as determined by the board of regents. The fund shall be used to:

- (1) Implement the university housing assistance master plan, in accordance with policies adopted by the board of regents; and
- (2) Account for all transactions of the university housing assistance program, including but not limited to revenues, expenditures, loans, and transfers.

§ -389 **University of Hawaii alumni revolving fund.** There is established the University of Hawaii alumni revolving fund into which shall be deposited funds and proceeds received by the university from alumni activities and donations from alumni. Funds deposited into this revolving fund may be expended by the university for all costs associated with conducting alumni affairs, activities, and programs for the university system, including but not limited to expenses for honoraria, hotel and room rentals, food and refreshment, printing and mailing, banners and signs, plaques and awards, airfare and per diem, leis, rental of audiovisual, musical, and stage equipment, and activity supplies and materials, without regard to statutory competitive bidding requirements.

§ -390 **University of Hawaii graduate application revolving fund.** There is established the University of Hawaii graduate application revolving fund for graduate program application processing. The board of regents may establish appropriate charges for application processing. The revenues from the charges shall be deposited into this revolving fund and shall be used to pay the costs of processing applications to all graduate programs.

§ -391 **University of Hawaii at Manoa intercollegiate athletics revolving fund and University of Hawaii at Hilo intercollegiate athletics revolving fund.** Notwithstanding any other law to the contrary, there are established the University of Hawaii at Manoa intercollegiate athletics revolving fund and the University of Hawaii at Hilo intercollegiate athletics revolving fund for the intercollegiate athletic programs of the University of Hawaii at Manoa and the University of Hawaii at Hilo, which shall be used to receive, deposit, disburse, and account for funds from the activities of the intercollegiate athletic programs. The university may establish appropriate charges for activities related to its athletic programs and the use of its athletic facilities, the proceeds from which shall be deposited into these revolving funds.

The university shall maintain the financial integrity and viability of these revolving funds, including the maintenance of an adequate reserve to cope with the various factors that impact the revenue structure of an intercollegiate athletic program.

§ -392 **Animal research farm, Waialeale, Oahu revolving fund.** There is established the animal research farm, Waialeale, Oahu revolving fund for the animal research farm, Waialeale, Oahu, operated by the college of tropical agriculture and human resources of the University of Hawaii, into which shall be deposited the receipts from fees realized from the sale of livestock, services, and supplies. Funds deposited into this revolving fund shall be expended for animal research, and services and supplies related thereto.

§ -393 **Seed distribution program; revolving fund.** There is established the seed distribution program revolving fund, the purpose of which shall be to enable the seed distribution program to operate at a level that will adequately meet the demand for seeds. The fund shall be used for the cultivation and production of seeds and for research and developmental purposes directly related to cultivation and production. The fund shall be administered by the college of tropical agriculture and human resources of the University of Hawaii. All sums withdrawn from the fund shall be reimbursed or restored from the proceeds realized through the sale of seeds.

§ -394 **Conference center revolving fund; University of Hawaii at Manoa.** There is established the conference center revolving fund for the conference center program in the college of continuing education and community service of the University of Hawaii at Manoa. All fees, charges, and other moneys collected in conjunction with the conference center program shall be deposited in the revolving fund. The dean of the college of continuing education and community service is authorized to expend funds from the revolving fund for all costs associated with conducting conferences, seminars, and courses by the conference center program, including but not limited to expenses for honoraria, hotel and room rentals, food and refreshment, printing and mailing, airfare and per diem, leis, rental of audiovisual equipment, and conference supplies and materials.

§ -395 **International exchange healthcare tourism revolving fund.** (a) There is established the international exchange healthcare tourism revolving fund for the international exchange of healthcare tourism program into which shall be deposited all donations, gifts, contributions, legislative appropriations, and moneys generated by the program through education, training, and research contracts and grants. Moneys deposited into this fund for the school of medicine and the school of nursing and dental hygiene shall be divided into separate accounts for each school, provided that moneys not designated for use by a particular school shall be divided equally. Moneys shall be expended from each account by the school of medicine and the school of nursing and dental hygiene, for student aid, training projects, teaching, supplies, services, and activities related to the development and promotion of the health-related tourism education program.

(b) All unexpended and unencumbered moneys appropriated by the legislature remaining in the fund at the close of each fiscal year that are deemed, by the director of finance, to be in excess of the moneys necessary to carry out the purposes of this section over the next following fiscal year shall lapse to the credit of the state general fund.

§ -396 **Education laboratory school summer programs revolving fund.** There is established the education laboratory school summer programs revolving fund, from which shall be paid the cost of operations of the education laboratory school summer programs. The education laboratory school may establish appropriate charges for activities related to its summer programs, the proceeds from which shall be deposited into this revolving fund.

§ -397 **Center for labor education and research revolving fund.** There is established the center for labor education and research revolving fund, for use by the director of the center for labor education and research with the approval of the chancellor or vice chancellor of the University of Hawaii, West Oahu campus, in carrying out the purposes of the center. All fees, charges, and other moneys collected in conjunction with the operations of the center for labor education and research shall be deposited in the revolving fund. Such amounts shall be expended from the fund by the director of the center for labor education and research as may be

necessary to defray the cost of operating the center for labor education and research, excluding compensation of the permanent staff, but including contractual obligation, rentals, and such other program costs as approved by the chancellor or vice chancellor, West Oahu campus.

§ -398 **Career and technical training projects revolving fund; University of Hawaii at Hilo.** There is established the career and technical training projects revolving fund for the career and technical training projects of the community colleges and the University of Hawaii at Hilo into which shall be deposited the receipts from fees for services, supplies, and use of equipment provided by or in connection with these projects. Funds deposited in this account shall be expended for vocational and technical training projects, and supplies, equipment, and services related thereto.

§ -399 **Community college and University of Hawaii at Hilo bookstore revolving fund.** There is established the community college and University of Hawaii at Hilo bookstore revolving fund for the community college and University of Hawaii at Hilo bookstores, from which shall be paid the cost of goods or services rendered or furnished to the bookstores and which shall be replenished through charges made for goods and services or through transfers from other accounts or funds.

§ -400 **Hawaiian language college revolving fund.** There is established the Hawaiian language college revolving fund into which revenues from the sale of Hawaiian language materials shall be deposited. Moneys deposited into this fund shall be expended to support the Hawaiian language college at the University of Hawaii at Hilo established under section -231.

§ -401 **University of Hawaii-Hilo theatre revolving fund.** There is established the University of Hawaii-Hilo theatre revolving fund, which shall consist of admissions, advertising sales, corporate sponsorships, marketing, merchandising, donations, fund-raising, fees, charges, and other moneys collected in conjunction with the University of Hawaii-Hilo theatre program. The revolving fund shall be administered by the office of administrative affairs of the University of Hawaii at Hilo. Funds may be expended for all costs associated with the theatre program, including artists' fees, production costs, personnel costs, honoraria, per diem, hotel and room rentals, food and refreshments, printing and mailing, advertising, airfare, leis, rental or purchase of equipment, and theater supplies and materials.

§ -402 **Conference center revolving fund; University of Hawaii at Hilo.** There is established the conference center revolving fund for the conference center program in the college of continuing education and community service of the University of Hawaii at Hilo. All fees, charges, and other moneys collected in conjunction with the conference center program shall be deposited in the revolving fund. The dean of the college of continuing education and community service is authorized to expend funds from the revolving fund for all costs associated with conducting conferences, seminars, and courses by the conference center program, including but not limited to expenses for honoraria, hotel and room rentals, food and refreshment, printing and mailing, airfare and per diem, leis, rental of audiovisual equipment, and conference supplies and materials.

§ -403 **Community college conference center revolving fund.** (a) There is established the community college conference center revolving fund for conference center programs conducted by the various community colleges. All fees,

charges, and other moneys collected in conjunction with the conference center program of each community college shall be deposited in separate accounts within the revolving fund. The chancellor of each community college or a designee is authorized to expend funds from the appropriate account in the revolving fund for all costs associated with conducting conferences, seminars, and courses by the conference center program, including but not limited to expenses for honoraria, hotel and room rentals, food and refreshment, printing and mailing, airfare and per diem, leis, rental of audiovisual equipment, and conference supplies and materials, without regard to section 103D-1002 and any competitive bidding requirements pursuant to state procurement requirements.

(b) The chancellors of the community colleges shall prepare an annual report to the legislature accounting for all income and expenditures of each separate account within the revolving fund.

**§ -404 University of Hawaii real property and facilities use revolving fund.** (a) There is established the University of Hawaii real property and facilities use revolving fund into which shall be deposited all revenues collected by the university for the use of university real property and facilities, except as otherwise provided by law. The board of regents may establish prices, fees, and charges, including those for the sale, lease, or use of university real property and facilities, which include land, buildings, grounds, furnishings, and equipment; provided that the university shall comply with all statutory and common law requirements in the disposition of ceded lands. The board of regents shall be exempt from the public notice and public hearing requirements of chapter 91 in establishing and amending the fees and charges. The university may establish separate accounts within the revolving fund for major program activities. Funds deposited into the revolving fund accounts shall be expended to pay the costs of operating university facilities, including maintenance, administrative expenses, salaries, wages, and benefits of employees, contractor services, supplies, security, furnishings, equipment, janitorial services, insurance, utilities, and other operational expenses. Revenues not expended as provided in this section may be transferred to other university funds to be invested or expended for the administrative or overhead costs of the university. All expenditures from this revolving fund shall be subject to legislative appropriation.

(b) As used in this section, "maintenance" includes repairs, replacement, renewals, operation, and administration.

**§ -405 University parking revolving fund.** There is established the university parking revolving fund. All fees, fines, or other moneys collected under subpart B of part VI shall be deposited into this fund. All moneys in the fund are hereby appropriated for the purposes of, and shall be expended by the board of regents in the manner specified by, section -377.

## E. Trust Funds

**§ -411 GEAR UP Hawaii scholarship trust fund.** (a) The University of Hawaii, in its sole discretion, may establish a charitable trust, recognized as tax-exempt under section 501(c)(3) of the Internal Revenue Code of 1986, as amended, to be known as the "GEAR UP Hawaii scholarship trust fund" and appoint one or more trustees thereof. The purpose of the trust is to establish and maintain a financial assistance program to award scholarships to eligible students in accordance with the requirements of funds received from the United States Department of Education under the program entitled Gaining Early Awareness and Readiness for Undergraduate Programs ("GEAR UP"), established pursuant to P.L. 105-244, the 1998 Amendments to the Higher Education Act of 1985, codified at 20 U.S.C. §1070a-21

et seq. The university shall transfer to the trust all funds received under GEAR UP upon such terms and conditions consistent with the requirements of GEAR UP, as it may be amended, and as the university, as settlor of the trust, may determine in its discretion.

(b) The establishment of the trust described in subsection (a), including but not limited to the specification by the university, as its settlor, of any specific criteria or other eligibility requirements for scholarship awards, shall not be deemed to be "rules" or "rulemaking" subject to chapter 91 or otherwise be subject to chapter 91.

(c) Neither the trust established by the university pursuant to subsection (a), nor any trustee thereof, shall be a department, office, agency, board, commission, bureau, instrumentality, committee, authority, or office of the State or any of its political subdivisions, or otherwise deemed a public or quasi-public entity, nor shall the initial funding of, or a transfer to, the trust constitute a state grant or subsidy. The trust shall not be subject to laws or rules governing state and other public or quasi-public entities, including but not limited to chapters 23, 36, 37, 38, 40, 42F, 76, 78, 84, 89, 91, 92, 92F, 103, and 103D.

(d) This section shall be liberally construed so as not to hinder or impede the university in its participation in GEAR UP including, but not limited to, the establishment of the trust and its operation.

**§ -412 University of Hawaii workers' compensation and unemployment insurance compensation trust fund.** There is established the University of Hawaii workers' compensation and unemployment insurance compensation trust fund into which shall be deposited all revenues derived from assessments for workers' compensation costs and unemployment insurance compensation costs against the payroll of university employees. Revenues deposited into this account may be expended by the university for all costs and expenses associated with the administration of the university's workers' compensation and unemployment insurance compensation programs, including benefits payments, claims administration, settlements, insurance premiums, and legal fees.

## F. Federal Funds

**§ -421 Land-grant college aid.** The State hereby accepts and assents to the terms and provisions of paragraph 14(e) of the Act of Congress, approved July 12, 1960, entitled: "to amend certain laws of the United States in light of the admission of the State of Hawaii into the Union, and for other purposes" (Public Law 86-624), and hereby consents to receive the benefits thereof in the manner and form and for the purpose in the Act intended and provided.

Until otherwise provided by law, the university shall be the beneficiary of the income from the funds in the Act mentioned and shall use and disburse the income from the funds only for the purposes and in the manner provided in the Act. The board of regents shall be the custodian of the funds. The board shall invest the funds in the manner provided by the Act. All income earned by the funds shall be credited to the university and used only for the purposes provided in the Act. The funds and all income earned therefrom shall be deemed to be trust money.

**§ -422 Agricultural extension service; experiment station.** The grants of moneys and the purposes of the grants authorized by the Act of Congress approved August 30, 1890, known as the Second Morrill Act, providing for the endowment and maintenance of colleges for the benefit of agriculture and the mechanic arts, and by the Acts of Congress approved March 2, 1887, March 16, 1906, and February 24, 1925, providing for agricultural experiment stations in connection with

colleges of agriculture and mechanic arts, and by any other acts of Congress for similar purposes, heretofore assented to on behalf of the college of Hawaii, are hereby reassented to on behalf of the college of agriculture as an integral part of the University of Hawaii.

The assent of the legislature hereby is given to the provisions and requirements of the Acts of Congress of May 8, 1914, as supplemented by the Act of May 16, 1928, and to the provisions and requirements of the Act of Congress of May 22, 1928, and the board of regents may receive the grants of money appropriated under the Acts and organize and conduct agricultural extension work, which shall be carried on in connection with the college of agriculture of the university, in accordance with the terms and conditions expressed in the aforesaid Acts.

§ -423 **Acceptance of federal aid; career and technical education.** (a) The State accepts, together with the benefits of all respective funds appropriated thereby, all of the provisions of the Act of Congress approved February 23, 1917, entitled: "An Act to provide for the promotion of vocational education; to provide for cooperation with the states in the promotion of such education in agriculture, trade and industries; to provide for the cooperation of the States in the preparation of teachers of vocational subject; and to appropriate money and regulate its expenditure" and any Acts that amend or supplement the Act.

(b) The state board for career and technical education shall be the board of regents as designated under section -131.

## PART VI. FACILITIES

### A. University Projects

§ -431 **Definitions.** Whenever used in this subpart:

"Board" or "board of regents" means the board of regents of the University of Hawaii, which is hereby declared to be a public corporation.

"Construction" includes acquisition, purchase, construction, reconstruction, remodeling, renovation, improvement, betterment, and extension; "construct" includes acquire, purchase, construct, reconstruct, remodel, renovate, improve, better, and extend.

"Cost of construction" includes all costs and estimated costs of the preparation and issuance of revenue bonds and the obtaining of a loan, and all costs and estimated costs of construction of a university project, and without limiting the foregoing, includes engineering, architectural, supervisory, inspectional, fiscal, and legal expenses; interest which it is estimated will accrue during the construction period and for six months thereafter on money obtained by loan or through the issuance of revenue bonds, or both; amounts necessary to establish or increase reserves; costs of utilities, equipment, fixtures, and apparatus necessary or convenient for the use and occupancy of the university project and, if so determined by the board, the initial furnishings of the university project.

"Cost of maintenance" includes all costs and estimated costs of the maintenance of a university project or university system, and without limiting the foregoing, includes all salaries, wages, and fees of officers, employees, and contractors of the board engaged in the maintenance of a university project or university system, the cost of all supplies and equipment, and all operational and administrative expenses.

"Maintain" includes repair, upkeep, replace, renew, maintain, operate, and administer.

"Maintenance" includes repairs, upkeep, replacement, renewals, maintenance, operation, and administration.



“Reserves” means reserves required or permitted in the covenants in the resolution or resolutions of the board authorizing the obtaining of loans or issuance of revenue bonds under this subpart.

“Revenue bonds” means revenue bonds, interim certificates, notes, debentures, or other evidence of indebtedness of the board authorized by or issued under this subpart.

“Revenue of the university” means all income, receipts, and revenues of whatever nature received by the university, or which it is entitled to receive as an owner, operator, and manager of the university, including legislative appropriations of special and revolving funds, other than general appropriations and gifts the terms of which preclude their being used for payment of the cost of construction, cost of maintenance, or both, of a university project or university system.

“Revenue of the university project or university system” means all revenues derived from the rentals, fees, and charges imposed for the use or enjoyment of or the services furnished by a particular university project or university system, as the case may be.

“University” means the University of Hawaii, each community college established and governed by the board, and any and every other educational institution now or hereafter under the control of or governed by the board.

“University athletic unit” means athletic facilities of every nature devoted either exclusively to use by the university, including its students, faculty, guests, employees, and their families including reciprocal beneficiaries, or both to university and non-university uses, for the enjoyment or utilization of, or for the privilege of observance of, athletic contests or exhibitions conducted in or by means of which facilities a fee is imposed or a charge made. A university athletic unit includes but is not limited to gymnasium, field house, stadium, playing field, baseball diamond, courts suitable for tennis, volleyball, and basketball, and swimming and diving pools.

“University dining unit” means a structure or facility suitable for the feeding and boarding of students enrolled in the university, members of the faculty of the university, guests, employees of the university, and members of the families including reciprocal beneficiaries of any such persons, for the use and services of which a fee is imposed or charge made. A university dining unit may be a separate structure or structures or included in another university project.

“University health unit” means a facility for the treatment, diagnosing, or prevention of illness of students enrolled in the university, members of the faculty of the university, persons temporarily visiting the university, employees of the university, and members of the families including reciprocal beneficiaries of any such persons, for the use and services of which a fee is imposed or charge made. A university health unit includes but is not limited to health centers, infirmaries, and clinics and may be a separate structure or structures or included in another university project.

“University housing unit” means a structure or structures suitable for the housing of, and use and occupancy as a dwelling by, students enrolled in the university, members of the faculty of the university, persons temporarily visiting the university at the invitation or request of the board, employees of the university, and members of the families, including reciprocal beneficiaries of any such persons, for the use and occupancy of which a fee or rent is charged. A university housing unit includes but is not limited to dormitories, apartments, and other multiple unit buildings, houses, and other single unit buildings.

“University parking unit” means a facility for the parking or storage, or both, of vehicles owned or used by students enrolled in the university, members of the faculty of the university, persons temporarily visiting the university, employees of the university, and members of the families including reciprocal beneficiaries of

any such person, for the use, services, or occupancy of which a fee is imposed or charge made. A university parking unit includes but is not limited to parking spaces on streets, alleys, drives, and other roadways under the jurisdiction of the board, paved or unpaved surface areas or lots, and subsurface, surface, or above surface structure or structures, and may be a separate structure or structures or included in another university project.

“University project” means a university athletic unit, university dining unit, university health unit, university housing unit, university parking unit, university student center, and any other undertaking or improvement capable of producing a revenue constructed, maintained, or both, by the board, in furtherance of the purposes of the university, and for the use and services of which fees are imposed or charges made. A university project shall include but not be limited to all land, fixtures, appurtenances, improvements, utilities, equipment, and furnishings necessary or convenient for the use and occupancy of a university project for the purposes for which it was constructed or is used. A university project shall be a public improvement or public undertaking within the meaning of section 562(d) of Title 48 of the United States Code.

“University student center” means a structure or structures suitable for student activities or endeavors, such as, but not limited to, meetings, organizations, publications, and recreation, for the use and services of which a fee is imposed or a charge made. A university student center includes but is not limited to student unions, bookstores, and snack bars and may be a separate structure or structures or included in another university project.

“University system” means two or more university projects operated and maintained jointly as a system. A university system may include various university projects on any one or more of the areas under the jurisdiction of the board and may include university projects of any one or more of the educational institutions under the control of or governed by the board, including the University of Hawaii.

§ -432 Powers of the board. In addition to the powers that it now possesses, the board of regents shall have the power to:

- (1) Construct and maintain university projects, including a university project included or to be in a university system;
- (2) Combine two or more university projects, now or hereafter existing on any one or more of the areas of any one or more of the educational institutions under the control of or governed by the board, into a university system or systems, and to maintain such system or systems;
- (3) Prescribe and collect rents, fees, and charges for the use of or services furnished by any university project or the facilities thereof;
- (4) With the approval of the governor, issue revenue bonds, to finance, in whole or in part the cost of construction, or maintenance, or both, of any university project, including a university project included or to be included in a university system, and reserves;
- (5) Pledge to the punctual payment of any revenue bonds and interest thereon, the revenue of the university project or projects for the construction or maintenance of which the bonds have been issued, or the revenue of the university system in which a university project is to be included, and the revenue of other or all university projects or university systems, in an amount sufficient to pay such bonds and interest as the same become due and to create and maintain reasonable reserves therefor; and
- (6) Advance such moneys of the university, not otherwise required, as are necessary to pay the expenses incurred in making the preparations for the initial issuance of revenue bonds under this chapter, and to take any

other action necessary or proper for carrying into execution and administering this subpart, including providing for the full utilization of university projects and university systems in every way conducive to the furtherance of any or all of the purposes of the university.

**§ -433 Authorization of university projects, university systems, and revenue bonds.** Authorization of construction, maintenance, or both of a university project or projects or university system or systems and authorization for issuance of revenue bonds under this subpart shall be by resolution or resolutions of the board of regents. The resolution may be adopted at the same meeting at which it is introduced by a majority of all the members of the board then in office and shall take effect immediately upon adoption.

**§ -434 Revenue bond anticipation notes.** In anticipation of the issuance under this subpart of revenue bonds previously authorized by the legislature and of the receipt of the proceeds of sale of the bonds, the board shall have the power, with the approval of the governor, to issue and sell bond anticipation notes for the purposes for which the bonds have been authorized, the maximum principal amount of which notes shall not exceed the authorized principal amount of the bonds. The notes shall be payable solely from and secured solely by the proceeds of the sale of the bonds in anticipation of which the notes are issued and the revenues from which would be payable and by which would be secured the bonds; provided that to the extent the principal of the notes is paid from moneys other than the proceeds of sale of the bonds, the maximum amount of bonds in anticipation of which the notes are issued that has been authorized shall be reduced by the amount of the notes paid in such manner. The issuance of the notes and the details thereof shall be governed by the provisions of this subpart with respect to bonds insofar as the same may be applicable; provided that:

- (1) Each note, together with all renewals and extensions thereof, or refundings thereof by other notes issued under this section, shall mature within five years from the date of the original note; and
- (2) The notes may be sold at public or private sale, as the board, with the approval of the governor, may determine.

**§ -435 Revenue bonds.** (a) Revenue bonds shall be issued in the name of the board of regents, may be in one or more series, may be in a denomination or denominations, may bear a date or dates, may mature at a time or times not exceeding fifty years from their respective dates, may be payable at a place or places within or without the State, may carry registration privileges, may be subject to terms and conditions of redemption or to tenders for purchase or to purchase prior to the stated maturity at the option of the board, the holder, or both, may be executed in a manner, and may contain terms, covenants, and conditions, and may be in a form and printed in the manner, including typewritten, that the resolution authorizing the issuance of the bonds or subsequent resolutions may provide.

(b) The board may acquire insurance policies and enter into banking arrangements upon terms and conditions that the board deems necessary or desirable, at the time of delivery of an issue of revenue bonds or a later date as the board deems in the best interests of the university, including but not limited to contracting for support facility or facilities as permitted in section -440, and contracting for interest rate swaps, swap options, interest rate floors, and other similar contracts to hedge or reduce the amount or duration of payment, rate, spread, or similar risk, or to reduce the cost of borrowing when used in conjunction with revenue bonds issued pursuant to this subpart.

(c) The board may make arrangements necessary for the sale of each issue of revenue bonds or part that are issued pursuant to this subpart, including but not limited to arranging for the preparation and printing of the revenue bonds, the official statement, and any other documents or instruments required for the issuance and sale of revenue bonds and retaining financial, accounting, and legal consultants all upon terms and conditions as the board deems advisable and in the best interests of the State and the university. The board may offer the revenue bonds at competitive sale or may negotiate the sale of the revenue bonds to any person or group of persons, to the federal government or any board, agency, instrumentality, or corporation thereof, to the employees' retirement system of the State, to any political subdivision of the State or any board, agency, instrumentality, public corporation, or other governmental organization of the State or any political subdivision thereof.

The sale of the revenue bonds by the board by negotiation shall be at the price or prices, and upon the terms and conditions, and the revenue bonds shall bear interest at such rate or rates, or varying rates, determined from time to time in the manner as the board shall approve.

The sale of the revenue bonds by the board at competitive sale shall be at the price or prices, and upon the terms and conditions, and the revenue bonds shall bear interest at the rate or rates, or such varying rates, determined from time to time in the manner as specified by the successful bidder. The revenue bonds shall be sold in the manner provided in section 39-55.

(d) The board may delegate the responsibility for the sale and the fixing of the terms and details of revenue bonds, and any other determinations or actions as may be provided by resolution of the board, to the chairperson, the president, or other designated officer.

(e) All public officers and bodies of the State, all political subdivisions, all insurance companies and associations, all banks, savings banks, and savings institutions, including building or savings and loan associations, all credit unions, all trust companies, all personal representatives, guardians, trustees, and all other persons and fiduciaries in the State who are regulated by law as to the character of their investment may legally invest funds within their control and available for investment in revenue bonds issued under this subpart. The purpose of this subsection is to authorize any person, firm, corporation, association, political subdivision, body, or officer, public or private, to use any funds owned or controlled by them, including (without prejudice to the generality of the foregoing) sinking, insurance, investment, retirement, compensation, pension, trust funds, and funds held on deposit, for the purchase of any revenue bonds issued under this subpart.

§ -436 CUSIP numbers. The board of regents in its discretion may provide that CUSIP identification numbers shall be imprinted on revenue bonds issued under this subpart. In the event the numbers are imprinted on any such bonds:

- (1) No such number shall constitute a part of the contract evidenced by the particular bond upon which it is imprinted; and
- (2) No liability shall attach to the board of regents or any officer or agent thereof or the State or any officer thereof, including any fiscal agent, paying agent, or registrar, for the bonds, by reason of the numbers or any use made thereof, including any use thereof made by the board of regents, the State, any such officer or any such agent, or by reason of any inaccuracy, error, or omission with respect thereto or in such use.

The board of regents in its discretion may require that all costs of obtaining and imprinting CUSIP identification numbers shall be paid by the purchaser of the bonds. For the purposes of this section, the term "CUSIP identification numbers" means the numbering system adopted by the Committee for Uniform Security Identification Procedures formed by the Securities Industry Association.

§ -437 Covenants in resolution authorizing revenue bonds. (a) Any resolution or resolutions authorizing the issuance of revenue bonds under this subpart may contain covenants as to:

- (1) The purpose or purposes to which the proceeds of the sale of the revenue bonds may be applied; the use and disposition of the proceeds; the investment thereof pending the use and disposition; and the use and disposition of the income from the investment;
- (2) The use and disposition of the revenue of the university project or projects for the construction or maintenance of which the revenue bonds are issued or of the university system or systems in which the project or projects are to be included; the use and disposition of the revenue of all university projects and university systems and of the revenues of the university, including the creation and maintenance of reserves; the investment of the revenues and of the moneys in the reserves; and the use and disposition of the income from the investments;
- (3) The minimum amount of revenues to be produced by the university projects or university systems, over and above the amount required to be produced by the first sentence and paragraphs (1) through (3) of section -442(a);
- (4) The use and disposition of the proceeds of the sale of any university project or university system, or part of either thereof;
- (5) The construction and maintenance of any university project or university system other than the university project or projects for the construction or maintenance of which revenue bonds are issued or the university system or systems in which such latter project or projects are to be included;
- (6) The issuance of other or additional revenue bonds payable either from the revenue of the university project or projects for the construction or maintenance of which the revenue bonds are issued or the revenue of the university system or systems in which such project or projects are to be included, or payable from the revenue of other university projects or university systems;
- (7) The maintenance of the university project or university system, including the creation by the board of regents of such supervisory positions, which shall not be subject to chapter 76, as are necessary to facilitate the issuance of revenue bonds by ensuring the adequacy of revenues;
- (8) The insurance to be carried on university projects and university systems and the use and disposition of insurance moneys;
- (9) Books of account and inspection and audit thereof;
- (10) A procedure by which the terms and conditions of the bond resolution or indenture may be subsequently amended or modified with the consent of the board, the vote or written assent of the holders of bonds or any proportion of the holder, or any trustee thereof; and
- (11) The terms and conditions upon which the holders of bonds evidencing the obligation to repay loans, or any proportion of the holders, or any trustee thereof, shall be entitled to the appointment of a receiver by any court of competent jurisdiction, which court shall have jurisdiction in such proceedings, and which receiver may enter and take possession of the university project or projects, or university system or systems, maintain them, prescribe rents, fees, and charges and collect, receive, and apply all revenue thereafter arising therefrom in the same manner as the board itself might do, but the receiver shall have no power, nor be granted any power, to utilize, or permit the utilization of, any university

project or university system other than in a manner consistent with and in furtherance of the purposes of the university; provided that all such covenants shall be subject to review by the governor.

(b) This subpart and any resolution or resolutions shall be a contract with the holders of bonds issued under this subpart, and the duties of the board and any resolution or resolutions shall be enforceable by any bondholder by mandamus or other appropriate suit, action, or proceeding in any court of competent jurisdiction.

§ -438 **Validity of bonds.** Revenue bonds bearing the signature of officers in office at the date of the signing thereof shall be valid and binding obligations, notwithstanding that, before the delivery thereof and payment therefor, any or all of the persons whose signatures appear thereon shall have ceased to be officers. The validity of the bonds shall not be dependent on nor affected by the validity or regularity of any proceedings relating to the construction or maintenance of the university project or projects or university system or systems for which the bonds were issued. The resolution authorizing the issuance of revenue bonds may provide that the bonds shall contain a recital that they are issued pursuant to this chapter, which recital shall be conclusive evidence of their validity and of the regularity of their issuance.

§ -439 **Bonds.** The resolution or resolutions authorizing the issuance of revenue bonds may pledge to the payment thereof all or any part of the revenue of a university project or projects or university system or systems, and the pledge shall constitute a lien on the revenue of the project or projects or system or systems to the extent and in the manner in the resolution or resolutions provided prior and paramount to any claim or other obligation of any nature against the revenue so pledged subsequently arising or subsequently incurred. The board of regents may provide in the resolution or resolutions that all revenue bonds of the same issue shall be equally and ratably secured without priority by reason of number, date, or maturity of the bonds, date of sale, execution, or delivery thereof. Any pledge of revenues contained in any resolution or resolutions adopted under this subpart shall be valid and binding from and after the adoption of the resolution or resolutions without physical delivery of the revenues therein pledged or the necessity of any further action by the State or the board, or any officer or agent of either the State or board.

§ -440 **Support facility for variable rate revenue bonds.** If revenue bonds issued pursuant to this subpart are issued bearing interest at a rate or rates that vary from time to time and with a right of holders to tender the revenue bonds for purchase, the board may contract for a support facility or facilities and remarketing arrangements that are required to market the revenue bonds to the greatest advantage of the board and the university, upon terms and conditions as the board deems necessary and proper.

The board may enter into contracts or agreements with an entity or entities providing a support facility; provided that any contract or agreement shall provide, in essence, that any amount due and owing by the board under the contract or agreement on an annual basis shall be payable from the revenue of the university; provided further that any obligation issued or arising pursuant to the terms of the contract or agreement in the form of revenue bonds, notes, or other evidences of indebtedness shall only arise if:

- (1) Moneys or securities have been irrevocably set aside for the full payment of a like principal amount of revenue bonds issued pursuant to this subpart; or

- (2) A like principal amount of the issue or series of revenue bonds to which the support facility relates are held in escrow by the entity or entities providing the support facility.

**§ -441 Payment and security of revenue bonds; revenue bonds not a debt of the State.** Revenue bonds issued under this subpart shall be payable from and secured by the revenues of the university pledged to the payment thereof, and those revenues shall be applied to the payment in accordance with this subpart and the resolution or resolutions authorizing the issuance of the revenue bonds. No holder or holders of any revenue bonds issued under this subpart shall ever have the right to compel any exercise of the taxing power of the State to pay the bonds or interest thereon. Each revenue bond shall recite in substance that the bond, including interest thereon, is payable from and secured by the revenues pledged to the payment thereof, and that the bond does not constitute a general or moral obligation or charge upon the general fund of the State and the full faith and credit of the State are not pledged to the payment of the principal and interest.

**§ -442 University projects and university systems to be self-supporting.**

(a) The board of regents shall impose and collect rates, rents, fees, and charges for the use or enjoyment and services of the facilities of each university project and shall revise the rates, rents, fees, and charges from time to time whenever necessary, so that all university projects and university systems shall be and always remain self-supporting. The rates, rents, fees, and charges prescribed shall be deposited into the university revenue-undertakings fund established under section -377 and shall be such as will produce revenue at least sufficient:

- (1) To pay the cost of maintenance of the university project or projects or university system or systems, including reserves therefor;
- (2) To pay when due all bonds and interest thereon, for the payment of which the revenue is or has been pledged, charged, or otherwise encumbered, including reserves therefor;
- (3) To reimburse the general fund of the State for any bond requirements on general obligation bonds issued for university project or projects or university system or systems to the extent required by law; and
- (4) To carry out all covenants and provisions of the resolution or resolutions authorizing the issuance of revenue bonds.

(b) Neither this section, nor any other section of this subpart shall preclude the making of appropriations to the board, the acceptance of gifts by the board or the use of funds derived from the sale of stocks, bonds, or other assets in the possession of the board to pay all or part of the costs of construction, of maintenance, or both, of any or all university projects or university systems.

**§ -443 University project, university system, bonds exempt from taxation.** The property and revenue of any university project or university system shall be exempt from all taxation and assessments. Revenue bonds issued under this subpart and all income therefrom shall be exempt from all taxation by the State, any county, or other political subdivision, except inheritance, transfer, and estate taxes.

**§ -444 Powers herein, additional to other powers.** The powers conferred by this subpart shall be in addition and supplemental to the powers conferred by any other law concerning any university project, university system, or any combination, or the issuance of revenue bonds. Revenue bonds may be issued pursuant to this subpart for those purposes notwithstanding any other law to the contrary that provides for the acquisition, purchase, construction, reconstruction, improvement, betterment, or extension of a similar undertaking or the establishment,

maintenance, or extension of a similar university project, university system, or any combination thereof, or the issuance of revenue bonds, without regard to the requirements, restrictions, limitations, or other law. Except as expressly provided in this subpart, insofar as this subpart is inconsistent with any other law, this subpart shall be controlling.

**§ -445 Funding and refunding bonds; authorization and purpose.** (a) The board of regents, with the approval of the governor, may provide for the issuance of revenue bonds, referred to in this subpart as “refunding bonds”, for the purpose of refunding, redeeming, or retiring at or at any time before maturity or at any time before the first date upon which the outstanding bonds to be refunded may be called for redemption, any bonds issued under this subpart, including any bonds that the holders may consent to be paid or refunded even though the bonds are not matured or are not callable or redeemable, and for the purpose of funding indebtedness not evidenced by revenue bonds but which was incurred for purposes for which revenue bonds may be issued pursuant to this subpart. The rate or rates of interest borne by the refunding bonds shall not be affected or limited by the rate or rates of interest borne by the bonds to be refunded or the indebtedness to be funded.

(b) All provisions of this subpart applicable to the issuance of revenue bonds shall be complied with in the issuance of refunding bonds. Refunding bonds shall be sold as provided in section -435, or the board may, in its discretion, provide for the exchange of refunding bonds for a like principal amount of outstanding bonds for the refunding of which the issuance of such refunding bonds has been authorized, whether or not the interest rate on the refunding bonds is higher than the interest rate on the bonds refunded thereby.

**§ -446 Funding and refunding bonds; principal amount.** Refunding bonds may be issued in a principal amount sufficient to provide funds for the payment of all bonds or indebtedness to be funded or refunded thereby, and expenses paid or incurred in connection with the calling, redeeming, retiring, or paying of such indebtedness or outstanding bonds and the issuance of such refunding bonds. The expenses may include the amount necessary for the payment of interest upon the indebtedness to be funded or the bonds to be refunded to the maturity or redemption date thereof, the amount necessary for the payment of interest upon the refunding bonds from the date of delivery thereof to the date upon which the principal of the outstanding bonds to be refunded will be paid, whether at maturity or pursuant to a call for redemption thereof or pursuant to agreement with the holders thereof, plus in any case the amount of the premium, if any, required to be paid in order to call or retire the bonds to be required.

**§ -447 Fiscal agents.** (a) The director of finance of the State, when requested by the board of regents, shall render full and complete assistance to the board in the preparation and sale of revenue bonds issued pursuant to this subpart. The director of finance shall be the fiscal agent of the board for the payment of all principal and interest, and for the transfer, of revenue bonds. The provisions of sections 36-3 and 39-12, relating to the appointment by the director of finance of other fiscal agents, paying agents, transfer agents, and registrars, and to the status of funds held by these fiscal agents, to the extent that they may appropriately be applied, shall be deemed incorporated in this subpart.

(b) The director of finance shall cause to be set up in the treasury of the State suitable accounts for:

- (1) The deposit of all revenues of university projects or university systems and the payment of all revenue bonds and the interest thereon;



- (2) All other payments provided or required by this subpart or any resolution or resolutions of the board; and
- (3) The holding of all reserves created under this subpart or any resolution or resolutions of the board.

§ -448 **Limitation of authority.** Notwithstanding any other provision to the contrary, nothing in this subpart shall be construed to authorize the board of regents to incur any indebtedness contrary to article VII, sections 12 and 13, of the state constitution or to incur any indebtedness that would not qualify for exclusion from the total indebtedness of the State under article VII, section 13(2) of the state constitution.

### B. University Parking

§ -451 **Parking; control by board of regents.** (a) The board of regents may make rules governing the traffic and parking conditions on the roadways and other areas under the jurisdiction of the university.

(b) The board may:

- (1) Assess fees for parking on roadways and in the parking areas under the jurisdiction of the university;
- (2) Install parking meters on roadways and in parking areas; and
- (3) Make rules relating to the assessments of fees for parking and the installation of parking meters. The rules shall be adopted pursuant to chapter 91.

The fees shall be deposited in the university parking revolving fund established under section -405.

(c) For the purposes of this subpart, parking facilities shall be considered university projects, and the board shall possess all powers conferred by subpart A.

§ -452 **Fines and other penalties.** The board of regents may enforce its rules by imposing fines not to exceed \$100 per violation, or by removing the vehicle of the offender from the area within the university's jurisdiction, or both; provided that a person violating any provision of part III of chapter 291, or any rule adopted thereunder, shall be guilty of a traffic infraction under chapter 291D and shall be fined or otherwise penalized in accordance with part III of chapter 291. The owner of any vehicle so towed away shall be responsible for and pay all costs incurred in the towing and storage. Any vehicle towed away and unclaimed thirty days thereafter shall be sold at public auction by the university. The university shall pay all costs of towing and storage and other costs connected with the sale out of the university parking revolving fund established under section -405. The fund shall be reimbursed for the costs from the proceeds of the sale, and the remaining balance, if any, shall be paid to the owner of the vehicle; provided that if the proceeds of the sale are not claimed by the owner of the vehicle within sixty days after notice, the proceeds shall be deposited in the university parking revolving fund.

§ -453 **Revenue bonds.** The board of regents is authorized to issue sufficient amounts of revenue bonds pursuant to subpart A for the purpose of providing adequate parking structures or other facilities.

### C. University Equipment

§ -461 **University of Hawaii equipment.** The board of regents may define or establish the value, useful life, and any other characteristic of the university's nonexpendable, tangible personal property, for all purposes for which these charac-

teristics must be defined or established, including inventory and surplus property control and the preparation of financial statements, but excluding the determination of cost elements related to the issuance of general obligation bonds.

**PART VII. ADMINISTRATIVELY ATTACHED ENTITIES**

**A. Research Corporation of the University of Hawaii**

§ -471 **Establishment of the research corporation; purpose.** (a) There is established as a body corporate, the research corporation of the University of Hawaii. The research corporation shall be a public instrumentality and shall be a part of the University of Hawaii for administrative purposes pursuant to section 26-35.

(b) The purposes of the research corporation shall include, but not be limited to, the promotion of all educational, scientific, and literary pursuits by:

- (1) Encouraging, initiating, aiding, developing, and conducting training, research, and study in the physical, biological, and social sciences, humanities, and all other branches of learning;
- (2) Encouraging and aiding in the education and training of persons for the conduct of the training, investigations, research, and study;
- (3) Furnishing of means, methods, and agencies by which the training, investigation, research, and study may be conducted;
- (4) Assisting in the dissemination of knowledge by establishing, aiding, and maintaining professorships or other staff positions, fellowships, scholarships, publications, and lectures;
- (5) Engaging in other means of making the benefits of training, investigations, research, and study available to the public; and
- (6) Taking any and all other actions reasonably designed to promote these purposes in the interest of promoting the general welfare of the people of the State.

§ -472 **Board of directors; composition.** The affairs of the research corporation shall be under the general management and control of the board of directors. The board of directors shall consist of ten members. Five members of the board of regents of the University of Hawaii, selected by the board of regents, shall be members of the board of directors for terms to be determined by the board of regents; provided that no term shall extend beyond the term as a member of the board of regents. The remaining five members shall be appointed by the governor pursuant to section 26-34. All the members appointed by the governor shall serve for a term of four years, except that the governor may reduce the terms of those initially appointed so as to provide, as nearly as can be, for the expiration of an equal number of terms at intervals of one year, each term commencing on July 1 and expiring on June 30. All members of the board of directors shall serve without pay, but shall be entitled to reimbursement for necessary expenses while attending meetings and while in the discharge of duties and responsibilities.

The members of the board of directors shall elect the chairperson of the board.

§ -473 **Powers of the research corporation.** The research corporation, under the direction of the board of directors, shall have the following general powers:

- (1) To adopt, amend, and repeal bylaws governing the conduct of its business and the exercise of the powers and performance of duties granted to or imposed upon it by law;

- (2) To sell, lease, rent, hold, maintain, use, and operate any property, real, personal, or mixed, tangible or intangible, in accordance with the conditions under which it was received;
- (3) To enter into and perform such contracts, leases, cooperative agreements, or other transactions with the university or any other agency or political subdivision of the State, any private person, firm, partnership, association, company, or corporation, only as it may be necessary in the conduct of its business and on such terms as it may deem appropriate; provided that the research corporation shall not obligate any funds of the State except those that have been appropriated to it. Notwithstanding the foregoing, the research corporation may enter into and perform such contracts, leases, cooperative agreements, or other transactions with any agency or instrumentality of the United States, a foreign nation, a state, a territory, or a possession, or with any political subdivision thereof, whenever the donating or granting agency or instrumentality determines that the university or any other agency of the State cannot as effectively and efficiently accomplish the purposes for which such contracts, leases, cooperative agreements, or other transactions are being entered into; provided that the research corporation shall not obligate any funds of the State except those that have been appropriated to it;
- (4) To receive by gifts, grants, devises, bequests, or otherwise from private sources only, any property, real, personal, or mixed, intangible or tangible, absolutely or in trust, to be used and disposed of, either the principal or the income therefrom, in accordance with the conditions under which it was received; except that no gift to the research corporation shall be accepted unless approved or confirmed by the board of directors. Notwithstanding the foregoing, the research corporation may receive gifts, grants, or awards from any agency or instrumentality of the United States, a foreign nation, a state, a territory, or a possession, or from any political subdivision thereof, whenever the donating or granting agency or instrumentality determines that the university or any other agency of the State cannot as effectively and efficiently accomplish the purposes for which the gifts, grants, or awards are being made, except that no gift to the research corporation shall be accepted unless approved or confirmed by the board of directors;
- (5) To have a corporate seal;
- (6) To sue and be sued in its own name;
- (7) To serve as trustee or beneficiary under terms of any gift, indenture, or will;
- (8) To apply for, take out, receive by purchase or gift, hold, administer, and dispose of copyrights, patent rights, licenses, assignments of inventions, discoveries, processes, and other property, rights or interests therein, and the income thereof, absolutely or subject to such conditions or trusts as may be attached thereto or be imposed thereon, and to obligate itself to perform and execute any and all such conditions or trusts;
- (9) To conduct research, studies, experiments, investigations, and tests in all fields of knowledge; to promote and develop the scientific and commercial value of inventions, discoveries, and processes; and to make, publish, and distribute the results thereof;
- (10) To coordinate and correlate activities and projects of the research corporation with the work of state agencies for the purpose of relating

research work to the economic development of the State whenever practical or desirable;

- (11) To stimulate and promote cooperative research projects and activities;
- (12) To establish and maintain, or to assist in establishing and maintaining, scholarships, fellowships, and professorships, and other staff positions for the purpose of aiding in the acquisition and dissemination of knowledge and to enter into agreements or contracts with other corporations, organizations, institutions, or persons for this purpose and to pay the necessary and appropriate expenses therefor;
- (13) To prepare, print, or publish any manuscript, research article, report, study, discussion, reference, collection, or any pictorial or schematic representation or group or collection thereof, whether it belongs to or is the work of any state agency or its employees, or the university or one of its faculty members or employees, or the research corporation or its employees, or a contractor of the research corporation. The printing or publication may be accomplished through whatever person, company, or agency is deemed most appropriate by the board of directors; and
- (14) To do any or all other acts reasonably necessary to carry out the objects and purposes of the research corporation and the university.

§ -474 **Research vessel safety requirements.** Notwithstanding any law to the contrary, prior to the charter or use of any research or other oceangoing vessel by the research corporation or any agent thereof, the research corporation shall ensure that the vessel meets the research vessel standards recommended by the guidelines of the university national oceanographic laboratory systems.

§ -475 **Research corporation excepted from certain state laws.** To carry out the purposes and objectives of the research corporation, including the conduct of research and training projects, the research corporation shall be granted flexibility in hiring its personnel and in handling and disbursing moneys by being excepted from the following state laws:

- (1) Sections 36-27 and 36-30, relating to special fund reimbursements to the state general fund;
- (2) Chapter 103D, relating to advertising for bids and purchases to be made in Hawaii whenever public moneys are expended;
- (3) Chapter 76, relating to civil service; and
- (4) Section 78-1, relating to public employment.

§ -476 **Officers and employees of the research corporation.** The president of the university shall be the president of the research corporation. The board of directors may also appoint such other officers and employees as may be necessary in administering the affairs of the research corporation. The board of directors shall set the employees' duties, responsibilities, salaries, holidays, vacations, leaves, hours of work, and working conditions. The board of directors may grant such other benefits to its employees as it deems necessary. Employees of the research corporation shall not be entitled to any benefits conferred under chapter 76 relating to civil service, chapter 78 relating to public service, chapter 88 relating to pension and retirement systems, and the appropriate collective bargaining agreement, executive order, executive directive, or rule.

§ -477 **Annual report.** The research corporation shall submit an annual report to the governor, the president of the senate, and the speaker of the house of representatives. The report shall include but not be limited to the corporation's

audited financial statement, total amount of payroll and other disbursements made, and progress and accomplishments made during the year.

§ **-478 Dissolution.** In the event of the dissolution of the research corporation, all of its property, real, personal, and mixed and wheresoever situated, shall vest immediately and absolutely in the university, and none of its property shall inure to the benefit of any officer, director, or member of the research corporation.

§ **-479 Patents, copyrights, and other rights.** Any patents, copyrights, inventions, discoveries, or other rights arising from research corporation activities shall belong to the research corporation and shall be subject to such policies or rules as the board of directors may adopt.

§ **-480 Special account.** Notwithstanding any other law to the contrary, the research corporation shall be authorized to set up a special account for depositing moneys received from either public or private contracts, or from private or public grants, awards, or gifts. The provisions of section -343 and other laws to the contrary notwithstanding, this special account may be used to receive, disburse, and account for funds of research and training projects of the University of Hawaii, other state agencies, and political subdivisions of the State. All disbursements shall be drawn on the special account upon checks prepared and signed, as approved by the executive director and some other person authorized by the board of directors.

§ **-481 Contracts with state agencies.** Any contract between the research corporation and any agency, office, department, or other administrative subdivision of the executive branch of the State shall include the following:

- (1) Its termination date;
- (2) Its intent and purpose;
- (3) A statement establishing the full permissible extent of its applicability; and
- (4) A description of the circumstances under which it may be amended or extended.

## **B. Pacific International Center for High Technology Research**

§ **-491 Pacific international center for high technology research; establishment.** (a) There is established, as an educational and research institution, the Pacific international center for high technology research. The center shall be placed within the university for administrative purposes, as provided for in section 26-35, but the center may later incorporate as a nonprofit corporation if this proves desirable to further its objectives.

(b) The center shall assist the State's high technology development corporation in its efforts, shall promote educational, scientific, technological, and literary pursuits in the area of high technology, and shall provide support for the high technology industry in Hawaii in the following manner:

- (1) By fostering scientific and technological interchange between students and scholars of the United States and other nations;
- (2) By encouraging, initiating, aiding, developing, and conducting scientific investigations and research in high technology;
- (3) By encouraging and aiding in the education and training of persons from the United States and other nations for the conduct of such investigations, research, and study;

- (4) By assisting in the dissemination of knowledge by establishing, aiding, and maintaining professorships or other staff positions, fellowships, scholarships, publications, and lectures;
- (5) By other means to make the benefits of investigations, research, and study available to the public; and
- (6) By any and all other acts reasonably designed to further the above purposes in the interest of promoting the general welfare of the people of the State and the mutual understanding between the United States and other nations.

(c) The center shall seek, receive, and accept from public and private sources, whether located within or without the United States, grants, gifts, devises, bequests, or any other money or property, real, personal, or mixed, tangible or intangible, absolutely or in trust, to be used in carrying out the purposes of the center.

### C. State Post-Secondary Education Commission

§ -501 **Establishment of the state post-secondary education commission; membership, administration.** There is established a state post-secondary education commission. The commission shall consist of the members of the board of regents of the university, the provisions of section 78-4 notwithstanding, and four other members who shall be broadly and equitably representative of the general public and public and private nonprofit and proprietary institutions of post-secondary education in the State and who shall be appointed in accordance with section 26-34. The commission shall be placed within the university for administrative purposes, and its administrative officer shall be the president of the university. The commission may appoint necessary staff members in accordance with applicable policies and procedures of the university.

§ -502 **Commission's powers and authority.** (a) The commission may cooperate with the federal government to qualify the State to receive funds made available under the Higher Education Act of 1965, Public Law 89-329, as amended from time to time, and in addition may serve as the state agency for the receipt of federal funds when federal legislation dealing with higher education or post-secondary education requires, as a condition of state receipt of such funds, the designation of a state agency that is broadly representative of the general public and of post-secondary education in the State and when agencies other than the commission created by this subpart may not qualify. The commission shall adopt appropriate rules not inconsistent with this subpart as may be required to administer this subpart. The rules shall be adopted in accordance with chapter 91.

(b) No funds appropriated by the legislature may be used to aid a person attending an institution not owned or exclusively controlled by the State or a department of the State or to pay for any staff work distributing federal or private funds to students attending such schools. The maximum amount of any grant awarded under the Hawaii state incentive grant program shall be equal to the maximum allowed by federal law.

§ -503 **Procedures for complaints concerning institutions of higher education.** In consultation with institutions of higher education in the State, the commission is authorized to establish and administer procedures for receiving and responding to complaints from students, faculty, staff, and others concerning institutions of higher education in the State.

§ -504 **Cooperation with other state agencies.** The commission may be assisted by other state agencies, including but not limited to the university, the department of education, and the department of commerce and consumer affairs.

#### **D. Western Regional Education Compact**

§ -511 **Approval of compact.** The Western Regional Education Compact, recommended by the Western Governors' Conference on November 10, 1950, for adoption by the states of Arizona, California, Colorado, Idaho, Montana, Nevada, New Mexico, Oregon, Utah, Washington, Wyoming, the then Territory of Alaska and the Territory of Hawaii, is hereby certified and approved and the adherence of the State of Hawaii to this compact is hereby declared by the legislature of the State of Hawaii.

§ -512 **Terms and provisions of compact.** The terms and provisions of the Compact referred to in section -511 are as follows:

#### **WESTERN REGIONAL EDUCATION COMPACT**

The contracting states do hereby agree as follows:

##### **ARTICLE I**

WHEREAS, the future of this Nation and of the Western States is dependent upon the quality of the education of its youth; and

WHEREAS, many of the Western States individually do not have sufficient numbers of potential students to warrant the establishment and maintenance within their borders of adequate facilities in all of the essential fields of technical, professional, and graduate training, nor do all the states have the financial ability to furnish within their borders institutions capable of providing acceptable standards of training in all of the fields mentioned above; and

WHEREAS, it is believed that the Western States, or groups of such states within the Region, cooperatively can provide acceptable and efficient educational facilities to meet the needs of the Region and of the students thereof;

Now, therefore, the states of Alaska, Arizona, California, Colorado, Idaho, Montana, Nevada, New Mexico, Oregon, Utah, Washington, and Wyoming, and the Territory do hereby covenant and agree as follows:

##### **ARTICLE II**

Each of the compacting states and the Territory of Hawaii pledges to each of the other compacting states and territory faithful cooperation in carrying out all the purposes of this compact.

##### **ARTICLE III**

The compacting states and territory hereby create the Western Interstate Commission for Higher Education, hereinafter called the commission. Said commission shall be a body corporate of each compacting state and territory and an agency thereof. The commission shall have all the powers and duties set forth herein, including the power to sue and be sued, and such additional powers as may be conferred upon it by subsequent action of the respective legislatures of the compacting states and territories.

ARTICLE IV

The commission shall consist of three resident members from each compacting state or territory. At all times one commissioner from each compacting state or territory shall be an educator engaged in the field of higher education in the state or territory from which he is appointed.

The commissioners from each state and territory shall be appointed by the governor thereof as provided by law in such state or territory. Any commissioner may be removed or suspended from office as provided by the law of the state or territory from which he shall have been appointed.

The terms of each commissioner shall be four years: Provided, however, that the first three commissioners shall be appointed as follows: one for two years, one for three years, and one for four years. Each commissioner shall hold office until his successor shall be appointed and qualified. If any office becomes vacant for any reason, the governor shall appoint a commissioner to fill the office for the remainder of the unexpired term.

ARTICLE V

Any business transacted at any meeting of the commission must be by affirmative vote of a majority of the whole number of compacting states and the Territory of Hawaii.

One or more commissioners from a majority of the compacting states and territory shall constitute a quorum for the transaction of business.

Each compacting state and territory represented at any meeting of the commission is entitled to one vote.

ARTICLE VI

The commission shall elect from its number a chairman and a vice chairman, and may appoint and at its pleasure dismiss or remove, such officers, agents, and employees as may be required to carry out the purpose of this compact; and shall fix and determine their duties, qualifications and compensation, having due regard for the importance of the responsibilities involved.

The commissioners shall serve without compensation, but shall be reimbursed for their actual and necessary expenses from the funds of the commission.

ARTICLE VII

The commission shall adopt a seal and bylaws and shall adopt and promulgate rules and regulations for its management and control.

The commission may elect such committees as it deems necessary for the carrying out of its functions.

The commission shall establish and maintain an office within one of the compacting states for the transaction of its business and may meet at any time, but in any event must meet at least once a year. The chairman may call such additional meetings and upon the request of a majority of the commissioners of three or more compacting states or the Territory of Hawaii shall call additional meetings.

The commission shall submit a budget to the Governor of each compacting state and territory at such time and for such period as may be required.

The commission shall, after negotiations with interested institutions, determine the cost of providing the facilities for graduate and professional education for use in its contractual agreements throughout the Region.

On or before the fifteenth day of January of each year, the commission shall submit to the Governors and Legislatures of the compacting states and territory a report of its activities for the preceding calendar year.



The commission shall keep accurate books of account, showing in full its receipts and disbursements, and said books of account shall be open at any reasonable time for inspection by the Governor of any compacting state or territory or the governor's designated representative. The commission shall not be subject to the audit and accounting procedure of any of the compacting states or territory. The commission shall provide for an independent annual audit.

#### ARTICLE VIII

It shall be the duty of the commission to enter into such contractual agreements with any institution in the region offering graduate or professional education and with any of the compacting states or territory as may be required in the judgment of the commission to provide adequate services and facilities of graduate and professional education for the citizens of the respective compacting states or territories. The commission shall first endeavor to provide adequate services and facilities in the fields of dentistry, medicine, public health and veterinary medicine, and may undertake similar activities in other professional and graduate fields.

For this purpose the commission may enter into contractual agreements.

(a) With the governing authority of any educational institution in the region, or with any compacting state or territory, to provide such graduate or professional educational services upon terms and conditions to be agreed upon between contracting parties, and

(b) With the governing authority of any educational institution in the region or with any compacting state or territory to assist in the placement of graduate or professional students in educational institutions in the region providing the desired services and facilities, upon such terms and conditions as the commission may prescribe.

It shall be the duty of the commission to undertake studies of needs for professional and graduate educational facilities in the region, the resources for meeting such needs, and the long-range effects of the compact on higher education; and from time to time to prepare comprehensive reports on such research for presentation to the Western Governors' Conference and to the legislatures of the compacting states and territory. In conducting such studies, the commission may confer with any national or regional planning body which may be established. The commission shall draft and recommend to the governors of the various compacting states and territory, uniform legislation dealing with problems of higher education in the region.

For the purposes of this compact the word "region" shall be construed to mean the geographical limits of the several compacting states and the Territory of Hawaii.

#### ARTICLE IX

The operating costs of the commission shall be apportioned equally among the compacting states and the Territory of Hawaii.

#### ARTICLE X

This compact shall become operative and binding immediately as to those states and territories adopting it whenever five or more of the states of Alaska, Arizona, California, Colorado, Idaho, Montana, Nevada, New Mexico, Oregon, Utah, Washington, Wyoming and the Territory of Hawaii have duly adopted it prior to July 1, 1953. This compact shall become effective as to any additional states or territories adopting thereafter at the time of such adoption.

## ARTICLE XI

This compact may be terminated at any time by consent of a majority of the compacting states and territory. Consent shall be manifested by passage and signature in the usual manner of legislation expressing such consent by the legislature and governor of such terminating state. Any state or territory may at any time withdraw from this compact by means of appropriate legislation to that end. Such withdrawal shall not become effective until two years after written notice thereof by the governor of the withdrawing state or territory accompanied by a certified copy of the requisite legislative action is received by the commission. Such withdrawal shall not relieve the withdrawing state or territory from its obligations hereunder accruing prior to the effective date of withdrawal. The withdrawing state or territory may rescind its action of withdrawal at any time within the two-year period. Thereafter, the withdrawing state or territory may be reinstated by application to and the approval by a majority vote of the commission.

## ARTICLE XII

If any compacting state or territory shall at any time default in the performance of any of its obligations assumed or imposed in accordance with the provisions of this compact, all rights, privileges and benefits conferred by this compact or agreements hereunder shall be suspended from the effective date of such default as fixed by the commission.

Unless such default shall be remedied within a period of two years following the effective date of such default, this compact may be terminated with respect to such defaulting state or territory by affirmative vote of three-fourths of the other member states or territories.

Any such defaulting state may be reinstated by: (a) performing all acts and obligations upon which it has heretofore defaulted, and (b) application to and the approval by a majority vote of the commission.

§ -513 **Execution.** The governor shall execute the compact on behalf of this State and perform any other acts that may be deemed requisite to its formal ratification and promulgation.

§ -514 **State commissioners.** (a) The governor, with the advice and consent of the senate, shall appoint the members of the commission for this State of the Western Interstate Commission for Higher Education that is created under the provisions of Article III of the Western Regional Education Compact. The positions of commissioners shall be placed within the University of Hawaii for administrative purposes.

(b) The qualifications and terms of office of the members of the commission for this State shall conform with Article IV of the compact.

(c) The commissioners shall serve without compensation, but they shall be reimbursed for their actual and necessary expenses by the Western Interstate Commission for Higher Education.

(d) The commissioners for this State, with the help of an advisory committee selected by them, shall certify those students from the State of Hawaii who may receive special assistance in their professional education from the State, under contracts provided for in the Western Regional Education Compact.

§ -515 **Expenditures; reports.** Expenditures by the commission, including the amounts fixed annually as the equal contribution of each member to the compact, shall be made upon warrants issued by the state comptroller based upon vouchers approved by any one of the commissioners. A report of the activities and expenses of

the commissioners and a proposed program for the State's continuing participation in the activities of the Western Interstate Commission for Higher Education, including a budget request, shall be submitted by the commissioners to the legislature for each regular legislative session.

§ **-516 Placement of students.** The Western Interstate Commission for Higher Education is authorized to act on behalf of this State in making arrangements for the placement of students in institutions and programs of higher learning outside the states which are parties to the compact establishing the commission. For that purpose, the commission may negotiate and enter into arrangements and contracts with this State or any appropriate agency thereof, with public and private educational institutions and agencies, and with states and other governmental entities. Such arrangements and contracts may provide for:

- (1) The obtaining of one or more places for students on either a special or continuing basis;
- (2) The payment of partial or full tuition and other charges; and
- (3) The furnishing of reciprocal, compensating, or other advantages and benefits in support of the educational program involved.

§ **-517 Payment of costs.** The authority conferred by section -516 shall be exercised only pursuant to written agreement between the commission and an agency of the State having responsibility for or duties with respect to programs for assisting residents of the State to obtain higher education. Any such agreement shall include provisions for the payment of tuition and any other costs, and no such agreement shall be made that commits the State or any agency or officer thereof to any obligation for which funds have not been appropriated or otherwise made available in accordance with law.

§ **-518 Obligations under compact not impaired.** Nothing contained in sections -516 and -517 shall be construed to alter any of the obligations or restrict or impair any of the rights that the State may have under the compact establishing the commission.

### **E. Hawaii Research Center for Futures Study**

§ **-521 Center established.** There is hereby established a Hawaii research center for futures study. The center is assigned to the university for administrative purposes.

§ **-522 Duties of the center.** The center shall:

- (1) Serve as a research arm of the workforce development council and such other public agencies as may properly require its services and assistance in locating research experts for particular studies and in working out the dimensions and contractual arrangements for such studies, the costs and final decisions of which shall be the responsibility of the requesting agencies;
- (2) Encourage and promote invention and experimentation in futures study, planning, and design;
- (3) Maintain an inventory of studies, research, and other information, including groups or persons concerned with futures study, planning, and design applicable to the State; and
- (4) Engage in the development and acquisition of models, techniques, and other tools, and capability for the effective monitoring, measuring, and forecasting of crucial aspects of Hawaii's socio-economic-environment.

tal system over the immediate, intermediate, and long-range future, including the design of systems to assist and stabilize the State's construction industry.

§ -523 **Director; duties.** The center shall be headed by a director, who need not be full-time, depending upon the extent of the requests for research assistance and for carrying out the other specified functions of the center. The director shall not be subject to chapter 76.

The director shall:

- (1) Administer funds allocated for the center;
- (2) Be authorized to accept, disburse, and allocate funds that become available from other governmental and private sources; and
- (3) Submit an annual report of the center's operations, including recommendations, to the governor and legislature prior to January 1 of each year.

### F. Nursing Scholars Program

§ -531 **Definitions.** As used in this subpart, unless the context otherwise requires:

"Approved course of study" means a course of study that leads to enrollment in a graduate nursing program approved by the state board of nursing or a course of study in a graduate nursing program approved by the state board of nursing.

"Approved educational institution" means a public post-secondary educational institution located in this State that has been accredited by a nationally recognized accrediting agency that is listed by the United States Secretary of Education.

"Program" means the nursing scholars program.

"Student" means any individual domiciled in this State who attends or is about to attend a post-secondary educational institution located in this State leading to a master's or doctoral degree in nursing and who intends to teach in a nursing program in Hawaii designed to prepare students for licensure as registered nurses.

"Work requirement" means teaching at a school of nursing located in Hawaii after receiving a master's degree or doctoral degree in nursing.

§ -532 **Nursing scholars program; establishment, administration.** (a) There is established a program to be known as the nursing scholars program to be placed administratively within the University of Hawaii.

(b) The University of Hawaii may provide scholarship grants under the scholarship program to an eligible student who is a resident in this State upon confirmation from an approved educational institution that the student has been accepted for enrollment in an approved graduate course of study. Awarding preference shall be given to Hawaii residents. Scholarship grants shall only be for the amounts set forth in section -533(a) and shall only be used for tuition, books, laboratory fees, and any other required educational fees and costs.

(c) The University of Hawaii shall establish lists of approved graduate courses of study for the various types of approved educational institutions falling within the program.

(d) To receive a scholarship grant under this chapter, a student shall:

- (1) Have graduated from a recognized nursing program with a bachelor of science in nursing;
- (2) Maintain domicile in Hawaii during the term of the scholarship grants;

- (3) Comply with any conditions placed on the scholarship grant by the University of Hawaii;
- (4) Maintain a grade point average of 3.0 or higher, on a scale of 4.0 or its equivalent; and
- (5) Enter into a written agreement with the University of Hawaii to:
  - (A) Satisfy all degree requirements and other requirements under this program;
  - (B) Commence nursing instruction in this State within one year after completion of an approved graduate degree in nursing for a period of one year for each academic year the student received a master's or doctoral degree, for a period of one year for each academic year the student receives a scholarship grant under this program, unless the University of Hawaii determines that there are extenuating circumstances; and
  - (C) Reimburse the State for all amounts received under this program and interest thereon, as determined by the University of Hawaii, if the student fails to comply with this subsection.

(e) A student applying for the scholarship shall apply to the University of Hawaii and include all information and documentation required by the University of Hawaii. The application shall include a verified statement of grade point average from the appropriate approved educational institution.

(f) The teaching requirement under subsection (d)(5)(B) shall begin after the receipt of the master's or doctoral degree. If a student terminates enrollment in the approved educational institution during the academic year or prior to completion of the approved graduate course of study and is eligible to have all or a portion of the tuition payments refunded under the refund policies of the institution, the approved educational institution shall notify the University of Hawaii in writing and shall return all unused portions of the scholarship grant. Returned amounts shall be used to fund other scholarship grants under this program.

(g) A scholarship grant under this program is only transferable to another approved educational institution if approved by the University of Hawaii.

(h) Scholarship grants awarded under the program shall be limited to funds appropriated for the purpose of awarding grants or funds otherwise matched by external entities. First priority for scholarship grant awards shall be given to renewal applicants.

**§ -533 Scholarships; nursing degree programs.** (a) The University of Hawaii shall award a scholarship grant in an amount up to \$10,000 per academic year to a student enrolled full-time in an approved educational institution pursuing a graduate degree in nursing through an approved course of study.

(b) The grant shall be for a maximum of three academic years if the student is enrolled in a master's degree program, or a maximum of four academic years if the student is enrolled in a doctoral program. To qualify for renewals beyond three years, the student shall comply with the requirements of section -532(d), and the University of Hawaii shall determine that the student is making satisfactory progress toward completing a master's or doctoral degree.

**§ -534 Program administration.** (a) The University of Hawaii shall monitor and verify a student's fulfillment of all requirements for a scholarship grant under this program.

(b) The University of Hawaii may enter into a contract with a private or public entity to administer the program.

(c) The University of Hawaii shall enforce repayment of all scholarship grants if a student does not comply with the requirements of the scholarship grant.

Enforcement shall include the use of all lawful collection procedures, including private collection agencies.

(d) Scholarship grants received by a student under the program shall not be considered taxable income under chapter 235.

(e) Scholarship grants received by a student under the program shall not be considered financial assistance or appropriations to the approved educational institution.

(f) Any person who knowingly or intentionally procures, obtains, or aids another to procure or obtain a scholarship grant under the program through fraudulent means shall be disqualified from participation in the program and shall be liable to the University of Hawaii for an amount equal to three times the amount obtained.

§ -535 **Annual report.** The University of Hawaii shall publish a report by September 1, 2006, and every year thereafter. The report shall include information regarding the operation of the program, including:

- (1) The total number of students receiving nursing scholarship grants;
- (2) The total amount of scholarship grants awarded;
- (3) The number of full-time and part-time graduate students receiving scholarship grants, reported according to institution of enrollment;
- (4) The amount of scholarship grants awarded to graduate students, reported according to institution of enrollment; and
- (5) The total number of graduate students who withdraw from the program.

(b)<sup>1</sup> The annual report shall be submitted to the governor and the legislature no later than twenty days prior to the convening of each regular session.”

## PART II. AMENDMENTS TO OTHER STATUTES

SECTION 3. Section 36-27, Hawaii Revised Statutes, is amended to read as follows:

“**§36-27 Transfers from special funds for central service expenses.** Except as provided in this section, and notwithstanding any other law to the contrary, from time to time, the director of finance, for the purpose of defraying the prorated estimate of central service expenses of government in relation to all special funds, except the:

- (1) Special out-of-school time instructional program fund under section 302A-1310;
- (2) School cafeteria special funds of the department of education;
- (3) Special funds of the University of Hawaii;
- (4) State educational facilities improvement special fund;
- (5) Convention center enterprise special fund under section 201B-8;
- (6) Special funds established by section 206E-6;
- (7) Housing loan program revenue bond special fund;
- (8) Housing project bond special fund;
- (9) Aloha Tower fund created by section 206J-17;
- (10) Funds of the employees’ retirement system created by section 88-109;
- (11) Unemployment compensation fund established under section 383-121;
- (12) Hawaii hurricane relief fund established under chapter 431P;
- (13) Hawaii health systems corporation special funds;
- (14) Tourism special fund established under section 201B-11;
- (15) Universal service fund established under chapter 269;
- (16) Integrated tax information management systems special fund under section 231-3.2;
- (17) Emergency and budget reserve fund under section 328L-3;

- (18) Public schools special fees and charges fund under section 302A-1130(f);
- (19) Sport fish special fund under section 187A-9.5;
- (20) Neurotrauma special fund under section 321H-4;
- (21) Deposit beverage container deposit special fund under section 342G-104;
- (22) Glass advance disposal fee special fund established by section 342G-82;
- (23) Center for nursing special fund under section [304D-5;] \_\_\_-373;
- (24) Passenger facility charge special fund established by section 261-5.5;
- (25) Solicitation of funds for charitable purposes special fund established by section 467B-15;
- (26) Land conservation fund established by section 173A-5; [and]

[(27)] Court interpreting services revolving fund under [section 607-1.5], shall deduct five per cent of all receipts of all other special funds, which deduction shall be transferred to the general fund of the State and become general realizations of the State. All officers of the State and other persons having power to allocate or disburse any special funds shall cooperate with the director in effecting these transfers. To determine the proper revenue base upon which the central service assessment is to be calculated, the director shall adopt rules pursuant to chapter 91 for the purpose of suspending or limiting the application of the central service assessment of any fund. No later than twenty days prior to the convening of each regular session of the legislature, the director shall report all central service assessments made during the preceding fiscal year.”

SECTION 4. Section 36-30, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

- “(a) Each special fund, except the:
- (1) Transportation use special fund established by section 261D-1;
  - (2) Special out-of-school time instructional program fund under section 302A-1310;
  - (3) School cafeteria special funds of the department of education;
  - (4) Special funds of the University of Hawaii;
  - (5) State educational facilities improvement special fund;
  - (6) Special funds established by section 206E-6;
  - (7) Aloha Tower fund created by section 206J-17;
  - (8) Funds of the employees’ retirement system created by section 88-109;
  - (9) Unemployment compensation fund established under section 383-121;
  - (10) Hawaii hurricane relief fund established under chapter 431P;
  - (11) Convention center enterprise special fund established under section 201B-8;
  - (12) Hawaii health systems corporation special funds;
  - (13) Tourism special fund established under section 201B-11;
  - (14) Universal service fund established under chapter 269;
  - (15) Integrated tax information management systems special fund under section 231-3.2;
  - (16) Emergency and budget reserve fund under section 328L-3;
  - (17) Public schools special fees and charges fund under section 302A-1130(f);
  - (18) Sport fish special fund under section 187A-9.5;
  - (19) Neurotrauma special fund under section 321H-4;
  - (20) Center for nursing special fund under section [304D-5;] \_\_\_-373;
  - (21) Passenger facility charge special fund established by section 261-5.5;
- and

(22) Court interpreting services revolving fund under [F]section 607-1.5[F]; shall be responsible for its pro rata share of the administrative expenses incurred by the department responsible for the operations supported by the special fund concerned.”

SECTION 5. Section 78-1, Hawaii Revised Statutes, is amended by amending subsection (f) to read as follows:

“(f) This section shall not apply to persons recruited by the University of Hawaii under the authority of section [~~304-11.~~]       -201.”

SECTION 6. Section 92-28, Hawaii Revised Statutes, is amended to read as follows:

“**§92-28 State service fees; increase or decrease of.** Any law to the contrary notwithstanding, the fees or other nontax revenues assessed or charged by any board, commission, or other governmental agency may be increased or decreased by the body in an amount not to exceed fifty per cent of the statutorily assessed fee or nontax revenue, in order to maintain a reasonable relation between the revenues derived from such fee or nontax revenue and the cost or value of services rendered, comparability among fees imposed by the State, or any other purpose which it may deem necessary and reasonable; provided that:

- (1) The authority to increase or decrease fees or nontax revenues shall be subject to the approval of the governor and extend only to the following: chapters 36, 92, 94, 142, 144, 145, 147, 150, 171, 188, 189, 231, 269, 271, 321, 338, 373, 412, 414, 414D, 415A, 417E, 419, 421, 421C, 421H, 421I, 425, 425E, 428, 431, 438, 439, 440, 442, 447, 448, 452, 453, 455, 456, 457, 458, 459, 460, 461, 463, 464, 466, 467, 469, 471, 482, 482E, 485, 501, 502, 505, 572, 574, and 846 (part II);
- (2) The authority to increase or decrease fees or nontax revenues under the chapters listed in paragraph (1) that are established by the department of commerce and consumer affairs shall apply to fees or nontax revenues established by statute or rule;
- (3) The authority to increase or decrease fees or nontax revenues established by the University of Hawaii under [~~chapters 304, 305, 306, and 308]~~ chapter \_\_\_\_\_ shall be subject to the approval of the board of regents; provided that the board’s approval of any increase or decrease in tuition for regular credit courses shall be preceded by an open public meeting held during or prior to the semester preceding the semester to which the tuition applies;
- (4) This section shall not apply to judicial fees as may be set by any chapter cited in this section;
- (5) The authority to increase or decrease fees or nontax revenues pursuant to this section shall be exempt from the public notice and public hearing requirements of chapter 91; and
- (6) Fees for copies of proposed and final rules and public notices of proposed rulemaking actions under chapter 91 shall not exceed 10 cents a page, as required by section 91-2.5.”

SECTION 7. Section 121-45, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) The adjutant general, subject to the availability of funds, may award tuition assistance to qualified enlisted persons, warrant officers, and company grade officers (0-1 through 0-3) in the Hawaii national guard who are:



- (1) Residents of the State, as defined by the board of regents pursuant to section [304-4;] \_\_\_-142; and
- (2) Undergraduate students working toward a degree on any campus of the University of Hawaii[; provided that any Hawaii national guard member who has been continuously receiving tuition assistance from the University of Hawaii since July 1, 1995, under the administrative continuation of tuition waivers previously authorized under section 304-14.6, and who has been enrolled in a graduate or professional degree program up to and including January 1, 1996, may continue to receive tuition assistance under this section until the member no longer meets the requirements of this section or obtains the degree the member is presently seeking, whichever occurs first].”

SECTION 8. Section 302A-704, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) The superintendent, subject to the availability of funds, may award tuition assistance to exemplary teachers who want to become vice-principals in Hawaii’s public schools, and who are:

- (1) Residents of the State, as defined by the board of regents pursuant to section [304-4;] \_\_\_-142; and
- (2) Taking courses that will lead to certification as a public school principal, on any campus of the University of Hawaii.”

SECTION 9. Section 302A-801, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) There is established the Hawaii teacher standards board, which shall be placed within the department for administrative purposes only. The board shall consist of thirteen members, including not less than six licensed teachers regularly engaged in teaching, three educational officers, the chairperson of the board of education or the chairperson’s designee, the superintendent or the superintendent’s designee, a representative of independent schools, and the dean of the University of Hawaii college of education or the dean’s designee; provided that the dean’s designee shall be chosen from the member institutions of the teacher education coordinating committee established under section [304-20.] \_\_\_-222.”

SECTION 10. Section 319-1, Hawaii Revised Statutes, is amended by amending the definition of “WICHE” to read as follows:

““WICHE” means the Western Interstate Commission [en] for Higher Education as described in chapter [310.] \_\_\_, part VII, subpart D.”

SECTION 11. Section 328L-2, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

“(b) The fund shall be used for the purpose of receiving, allocating, and appropriating the tobacco settlement moneys as follows:

- (1) Twenty-four and one-half per cent shall be appropriated into the emergency and budget reserve fund under section 328L-3;
- (2) Thirty-five per cent shall be appropriated to the department for purposes of section 328L-4;
- (3) Twelve and one-half per cent shall be appropriated into the Hawaii tobacco prevention and control trust fund under section 328L-5; and
- (4) Twenty-eight per cent shall be appropriated into the university revenue-undertakings fund created in section [306-10;] \_\_\_-377, to be applied solely to the payment of the principal of and interest on, and to generate required coverage, if any, for, revenue bonds issued by the board of

regents of the University of Hawaii to finance the cost of construction of a university health and wellness center, including a new medical school facility, to be situated on the island of Oahu, for the succeeding fiscal year; provided that any moneys in excess of the amount required to pay principal of and interest on, and to generate required coverage, if any, for such revenue bonds in any fiscal year, shall be transferred as follows:

- (A) To the emergency and budget reserve fund under section 328L-3, eighty per cent of the excess; and
- (B) To the Hawaii tobacco prevention and control trust fund under section 328L-5, twenty per cent of the excess; in the succeeding fiscal year.”

SECTION 12. Section 341-2, Hawaii Revised Statutes, is amended by amending the definition of “center” to read as follows:

““Center” means the University of Hawaii ecology or environmental center established in section [341-3(b)]. -271.”

SECTION 13. Section 341-3, Hawaii Revised Statutes, is amended to read as follows:

“**§341-3 Office of environmental quality control; [~~ecology or~~] environmental center; environmental council.** (a) There is created an office of environmental quality control [~~which~~] that shall be headed by a single executive to be known as the director of environmental quality control who shall be appointed by the governor as provided in section 26-34. This office shall implement this chapter and shall be placed within the department of health for administrative purposes. The office shall perform its duties under chapter 343 and shall serve the governor in an advisory capacity on all matters relating to environmental quality control.

(b) [~~There is created within the university an ecology or environmental center.~~] The environmental center within the University of Hawaii shall be as established under section -271.

(c) There is created an environmental council not to exceed fifteen members. Except for the director, members of the environmental council shall be appointed by the governor as provided in section 26-34. The council shall be attached to the department of health for administrative purposes. Except for the director, the term of each member shall be four years; provided that, of the members initially appointed, five members shall serve for four years, five members shall serve for three years, and the remaining four members shall serve for two years. Vacancies shall be filled for the remainder of any unexpired term in the same manner as original appointments. The director shall be an ex officio voting member of the council. The council chairperson shall be elected by the council from among the appointed members of the council.

Members shall be appointed to assure a broad and balanced representation of educational, business, and environmentally pertinent disciplines and professions, such as the natural and social sciences, the humanities, architecture, engineering, environmental consulting, public health, and planning; educational and research institutions with environmental competence; agriculture, real estate, visitor industry, construction, media, and voluntary community and environmental groups. The members of the council shall serve without compensation but shall be reimbursed for expenses, including travel expenses, incurred in the discharge of their duties.”

SECTION 14. Section 446E-1.5, Hawaii Revised Statutes, is amended to read as follows:

“~~[[§446E-1.5]]~~ **Advisory board.** The state post-secondary education commission, as established by chapter ~~[305H,]~~ \_\_\_\_\_, part VII, subpart C, shall serve as a resource to the director as needed regarding the requirements of this chapter.”

SECTION 15. Section 446E-1.6, Hawaii Revised Statutes, is amended to read as follows:

“~~[[§446E-1.6]]~~ **Exceptions.** This chapter shall not apply to the types of schools and courses of instruction that include:

- (1) Schools and educational programs conducted by firms, corporations, or persons for the training of their own employees;
- (2) Apprentice or other training programs provided by labor unions to union members or union applicants for membership;
- (3) Courses of instruction that do not lead to the conferring of a degree;
- (4) Seminars, refresher courses, and programs of instruction sponsored by professional, business, or farming organizations or associations for their members or employees of their members;
- (5) Courses of instruction conducted by a public school district or a combination of public school districts;
- (6) Colleges and universities that grant degrees pursuant to ~~[chapters 304 and 305;]~~ chapter \_\_\_\_\_;
- (7) Entities that are established under the jurisdiction of the board of regents of the University of Hawaii;
- (8) Schools, courses of instruction, or courses of training that are offered by a vendor to the purchaser or prospective purchaser of the vendor's product when the objective of the school or course is to enable the purchaser or the purchaser's employees to gain skills and knowledge which enable the purchaser to use the product;
- (9) Schools and educational programs conducted by religious organizations solely for the religious instruction of their members;
- (10) Nondegree granting post-secondary educational institutions licensed by the department of education or the real estate commission; and
- (11) Schools that are accredited by an agency or organization approved or recognized by the United States Department of Education or a successor agency, except as provided for in section 446E-5(b) and (c).”

### PART III. REPEALED CHAPTERS AND SECTIONS

SECTION 16. Chapters 222, 304, 304D, 304E, 305, 305A, 305E, 305H, 306, 307, 308, and 310, Hawaii Revised Statutes, are repealed.

SECTION 17. Section 341-5, Hawaii Revised Statutes, is repealed.

### PART IV.

SECTION 18. This Act shall be amended to conform to all other acts passed by the legislature during the regular session of 2006, whether enacted before or after the effective date of this Act, unless the other acts specifically provide otherwise; provided that the numbering, structure, and organization of the new chapter in section 2 of this Act shall control.

SECTION 19. The University of Hawaii may cite the section numbers of statutes repealed by this Act in financial reports to the legislature for the fiscal year ending June 30, 2006.

## **ACT 75**

**SECTION 20.** If any provision of this Act, or the application thereof to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of this Act, which can be given effect without the invalid provision or application, and to this end the provisions of this Act are severable.

**SECTION 21.** It is the intent of this Act that the recodification of chapter 310, Hawaii Revised Statutes, entitled “Western Regional Education Compact”, under article XI of the new chapter in section 2 of this Act, shall not be deemed to constitute the “appropriate legislation” or the “requisite legislative action” to initiate a withdrawal by this State from the Compact.

**SECTION 22.** Statutory material to be repealed is bracketed and stricken.<sup>2</sup> New statutory material is underscored.

**SECTION 23.** This Act shall take effect on July 1, 2006.

(Approved May 2, 2006.)

### **Notes**

1. No subsection (a).
2. Edited pursuant to HRS §23G-16.5.