A BILL FOR AN ACT

RELATING TO PRINCIPAL DEPARTMENTS.

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

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

"PART . SUNSET OF DEPARTMENTS

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

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

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

§26-B Repeal dates for departments. (a) Any department established by section 26-4 and listed in this section shall be repealed as specified in this section. The auditor shall perform an evaluation of the department prior to its repeal date pursuant to this part.
(b) An advisory committee shall be repealed on the same date set for repeal of the department unless the advisory committee is expressly continued by law.

(c) Department of human resources development (section 26-5), shall be repealed on June 30, 2025.

(d) Department of accounting and general services (section 26-6), shall be repealed on June 30, 2025.

(e) Department of the attorney general (section 26-7), shall be repealed on June 30, 2025.

(f) Department of budget and finance (section 26-8), shall be repealed on June 30, 2029.

(g) Department of commerce and consumer affairs (section 26-9), shall be repealed on June 30, 2029.

(h) Department of taxation (section 26-10), shall be repealed on June 30, 2029.

(i) Department of health (section 26-13), shall be repealed on June 30, 2033.

(j) Department of human services (section 26-14), shall be repealed on June 30, 2033.

(k) Department of land and natural resources (section 26-15), shall be repealed on June 30, 2033.
(1) Department of agriculture (section 26-16), shall be repealed on June 30, 2035.

(m) Department of business, economic development, and tourism (section 26-18), shall be repealed on June 30, 2035.

(n) Department of transportation (section 26-19), shall be repealed on June 30, 2035.

(o) Department of labor and industrial relations (section 26-20), shall be repealed on June 30, 2039.

(p) Department of defense (section 26-21), shall be repealed on June 30, 2039.

(q) Department of public safety (section 26-14.6), shall be repealed on June 30, 2039.

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

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

(2) An evaluation of department performance based on the criteria provided in section 26-E; and
(3) Any other information that the department considers appropriate or that is requested by the auditor.

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

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

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

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

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

(1) The efficiency and effectiveness of department operations;
(2) The mission, goals, and objectives of the department and the problem or need that the department was intended to address;

(3) The extent to which the mission, goals, and objectives have been achieved and the problem or need has been addressed;

(4) Any activities of the department in addition to those granted by statute, the authority for those activities, and the extent to which those activities are needed;

(5) An assessment of the department's fees, inspections, enforcement, and penalties;

(6) Whether less restrictive or alternative methods of performing any function that the department performs could adequately protect or provide equivalent service to the public;

(7) The extent to which the jurisdiction of the department and the programs administered by the department overlap or duplicate those of other departments, the extent to which the department coordinates with those other departments, and the extent to which the
programs administered by the department can be consolidated with the programs of other departments;

(8) The promptness and effectiveness with which the department addresses complaints concerning entities or other persons affected by the department, including an assessment of the department's administrative hearings process;

(9) An assessment of the department's rulemaking process and the extent to which the department has encouraged participation by the public in making its rules and decisions and the extent to which the public participation has resulted in rules that benefit the public;

(10) The extent to which the department has complied with federal and state laws and applicable rules regarding equality of employment opportunity and the rights and privacy of individuals;

(11) The extent to which the department issues and enforces rules relating to potential conflicts of interest of its employees;
(12) The extent to which the department complies with chapter 91 and follows records management practices that enable the department to respond efficiently to requests for public information;

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

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

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

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

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

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

(2) Recommendations on whether it is in the public interest to repeal, continue, or reorganize the department and its advisory committees;
(3) Recommendations on the consolidation, transfer, or reorganization of programs within departments not under review when the programs duplicate functions performed by the department under review;

(4) Recommendations to improve the operations of the department, including management recommendations that do not require a change in the department's enabling statute;

(5) Estimated fiscal impact of the recommendations; and

(6) Proposed legislation to be considered for enactment to improve the policies, procedures, and practices of the department. The auditor may request the assistance of the legislative reference bureau in drafting recommended legislation. Any other law to the contrary notwithstanding, the auditor may release copies of preliminary reports to the legislative reference bureau if the auditor requests the legislative reference bureau's assistance under this paragraph. The legislative reference bureau shall comply with the auditor's request if the auditor
provides a copy of the preliminary report to the bureau.

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

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

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

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

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

§26-I Department termination; procedure. (a) A department that is repealed under this part may continue in existence until June 30 of the following year to conclude its business. Unless otherwise provided by law, repeal of a
department shall not reduce or otherwise limit the powers and
authority of that department during the concluding year. A
department shall be repealed and shall cease all activities at
the expiration of the one-year period. Unless otherwise
provided by law, all rules that have been adopted by the
department shall expire at the expiration of the one-year
period.

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

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

(d) This part shall not impair or impede the payment of
bonded indebtedness and all other obligations, including lease,
contract, and other written obligations, incurred by a
department repealed pursuant to this part, in accordance with
their terms. If a repealed department has outstanding bonded
indebtedness or other outstanding obligations, including lease,
contract, and other written obligations, the bonds and all other
obligations, including lease, contract, and other written
obligations, remain valid and enforceable in accordance with
their terms and subject to all applicable terms and conditions
of the law and proceedings authorizing the bonds and all other
obligations, including lease, contract, and other written
obligations.

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

(1) The governor shall designate an appropriate department
that shall continue to carry out all covenants
contained in the bonds and in all other obligations,
including lease, contract, and other written
obligations, and the proceedings authorizing the bonds
and obligations, including the issuance of bonds, and
the performance of all other obligations, including
lease, contract, and other written obligations, to
complete the construction of projects or the
performance of other obligations, including lease,
contract, and other written obligations.

(2) The designated department shall provide payment from
the sources of payment of the bonds in accordance with
the terms of the bonds and shall provide payment from
the sources of payment of all other obligations,
including lease, contract, and other written
obligations, in accordance with their terms, whether
from taxes, revenues, or otherwise, until the bonds
and interest on the bonds are paid in full and all
other obligations, including lease, contract, and
other written obligations, are performed and paid in
full.

(e) Unless the governor designates an appropriate
department as prescribed by subsection (d), property and records
in the custody of a repealed department or advisory committee on
July 1 of the year after repeal shall be transferred to the comptroller. If the governor designates an appropriate department, the property and records shall be transferred to the designated department.

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

SECTION 2. 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 the Act that can be given effect without the invalid provision or application, and to this end the provisions of this Act are severable.

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

SECTION 4. This Act shall take effect upon its approval.
Report Title:
Principal Departments; Sunset Law; Auditor Review

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

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