

**"CHAPTER 304A
UNIVERSITY OF HAWAII SYSTEM**

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Note

Affirmative consent task force to review University of Hawaii's executive policy on sexual harassment, sexual assault, etc.; report to 2016-2017 legislature (ceases to exist June 30, 2017). L 2015, c 222.

As appropriate, amendments made to the repealed chapters by L 2006, cc 188, 234, 257, and 316 are incorporated into the corresponding sections of chapter 304A.

Annual incentive and performance report and plan. L 2008, c 188, §2.

Certain funds administered by the university, abolished. L 2015, c 106, §27.

Charcoal additives, soil nutrient enhancement research, phase 1. L 2007, c 266.

Concussion educational program. L 2012, c 197; L 2016, c 262.

Development of watershed management strategies in at least two of Hawaii's most severely flood-impacted watersheds. L 2006, c 187.

General fund appropriation reallocation plan, fiscal period 2014-2015 through 2020-2021. L 2013, c 34, §132.

East-West Center:

Extension of Social Security Act to center employees. L 2004, c 176.

Corporation Act. L 1975, c 82; L 1997, c 137; L 1998, c 2, §110.

Greenhouse gas emissions reduction task force (report to 2010 legislature and every five years thereafter). L 2007, c 234, §§1 to 7.

Hawaii health corps program; incentive program for physicians and dentists for serving in underserved or rural areas (implementation by 2010). L 2008, c 242.

Health care workforce shortage map and database; projections through 2020. L 2007, c 219, §§5, 6.

Medical marijuana dispensary program in the State; legislative oversight working group (ceases to exist June 30, 2018); reports to 2017-2018 legislature. L 2016, c 230, §23.

Music and enterprise learning experience (MELE) program grant. L Sp 2007, c 11, §6.

PBS Hawaii, thirty-five year lease. L Sp 2007, c 11, §3.

Public land trust information system. L 2011, c 54; L 2013, c 110.

Regents candidate advisory council, existing members to serve until terms expire. L 2013, c 72, §5.

Science and technology plan incorporating EPSCor (experimental program to stimulate competitive research) efforts (reports from 2011 and every 5 years thereafter). L 2009, c 137.

Skilled worker and business development center at each community college. L Sp 2009, c 34.

This chapter is based substantially on repealed chapters 222, 304, 304D, 304E, 305, 305A, 305E, 305H, 306, 307, 308, and 310 and repealed section 341-5.

Cross References

Bridge to hope program, see §346-68.

College savings program, see chapter 256.

Commission for national and community service, see chapter 90D.

Individual development accounts, see chapter 257.

Professional or vocational licensing sanctions for default on student loans, see §436B-19.6 and chapter 436C.

Tuition assistance for national guard personnel, see §121-45.

University of Hawaii optional retirement system, see §88-8.

Departmental data sharing (improving educational and workforce outcomes), see §27-7.

Hawaii agriculture workforce advisory board, see §371-19.

Hawaii health corps, see chapter 309H.

Interstate compact on educational opportunity for military children, see chapter 311D.

Pacific international space center for exploration systems, see chapter 201, part V, subpart B.

"PART I. SYSTEM STRUCTURE

A. GENERAL AND ADMINISTRATIVE PROVISIONS

[§304A-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. [L 2006, c 75, pt of §2]

Cross References

Authority and organization generally, see Const. Art. X and §26-11.

" **[§304A-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. [L 2006, c 75, pt of §2]

" **[§304A-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. [L 2006, c 75, pt of §2]

Note

East-West Center:

Corporation Act. L 1975, c 82; L 1997, c 137; L 1998, c 2, §110.

Extension of Social Security Act to center employees. L 2004, c 176.

" **§304A-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. The board shall consist of fifteen members who shall be appointed by the governor from lists of qualified candidates presented to the governor by the candidate advisory council, pursuant to section 304A-104.6, and shall be confirmed by the senate; provided that if the list of qualified candidates includes fewer than three candidates at any time during the nomination and confirmation process, the governor may request that the candidate advisory council reopen recruitment for qualified candidates. Members may be removed by the governor. Except as otherwise provided by law, state officers shall be eligible for appointment and membership.

The term of each member shall be five years, except as provided for the initial appointment in section 26-11; provided that the term of the student member shall be two years. Every member may serve beyond the expiration date of the member's term of appointment until the member's successor has been appointed by the governor and confirmed by the senate in accordance with article X, section 6 of the Hawaii State Constitution. Members shall serve no more than two consecutive five-year terms; provided that the members who are initially appointed to terms of two years or less pursuant to section 26-11(a) may be reappointed to two ensuing five-year terms. If a member is to be appointed to a second term of five years, the senate shall consider the question of whether to reconfirm the member at least one hundred twenty days prior to the conclusion of a member's first five-year term; provided that if the senate is not in session within one hundred twenty days prior to the conclusion of the member's first five-year term, the member shall continue to serve until the senate convenes for the next

regular session or the next special session for which the senate is authorized to consider the question of reconfirmation.

(b) In determining whether to confirm the governor's nominee to the board of regents, the senate shall consider the combination of abilities, breadth of experiences, and characteristics of the board of regents, as a whole, that will best serve the diverse interests and needs of the students of the university system and assist the university system in achieving its strategic goals and performance indicators. The senate shall consider whether the board reflects the diversity of the student population, the various counties of the State, and a broad representation of higher education-related stakeholders.

(c) At its first meeting after June 30 of each year, the board of regents shall elect a chairperson and one or more vice-chairpersons who shall serve until the adjournment of the first meeting of the board of regents after June 30 of the next year, or thereafter until their successors are elected; provided that the chairperson and vice chairpersons shall not be elected prior to the taking of office of regents whose terms shall begin on July 1 of that year. 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. A majority of the board of regents shall constitute a quorum to conduct business, and the concurrence of a majority of all the members to which the board of regents is entitled shall be necessary to make any action of the board of regents valid. The board shall meet at least ten times annually and, from time to time, may meet in each of the counties of Hawaii, Maui, and Kauai.

(d) The governor shall notify the candidate advisory council for the board of regents of the University of Hawaii in writing within ten days of receiving notification that a member of the board of regents is resigning or has died, or is being removed by the governor.

(e) 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. [L 2006, c 75, pt of §2; am L 2007, c 56, §4; am L Sp 2008, c 9, §3; am L 2011, c 50, §1; am L 2013, c 72, §3]

Revision Note

"May 1, 2007" substituted for "the effective date of this Act".

Cross References

Boards, generally, see §26-34.

Attorney General Opinions

Subsection (a), providing that a holdover member shall serve until a successor has been "appointed by the governor and confirmed by the senate", is constitutional; the state constitution explicitly grants the legislature the authority to regulate the board in this manner. Att. Gen. Op. 16-3.

Case Notes

Respondent's application of the holdover provision of subsection (a) to the six regents whose terms had expired contravened L 2007, Act 56, §§1 and 5 and was contrary to the modified appointment process for regents prescribed by the Hawaii constitution, article X, §6. 119 H. 341, 198 P.3d 604 (2008).

The governor's nondiscretionary duty—pursuant to the Hawaii constitution, article X, §6, §304A-104.5(e), and subsection (a)—to nominate and appoint members of the board of regents of the University of Hawaii, is subject to a reasonable time standard; reasonable time is judged by the totality of the circumstances; the passage of nearly ten months since the governor was presented with the regent candidate list was an unreasonable period of time for the governor to perform this constitutional and statutory duty and the governor was thus subject to mandamus. 119 H. 341, 198 P.3d 604 (2008).

" **§304A-104.5 REPEALED.** L 2013, c 72, §4.

" **[§304A-104.6] Candidate advisory council for the board of regents of the University of Hawaii.** (a) The candidate advisory council for the board of regents of the University of Hawaii shall recruit, evaluate, and present to the governor qualified candidates for nomination to a vacant seat on the board of regents. The candidate advisory council shall be attached to the University of Hawaii for administrative purposes.

(b) The candidate advisory council shall:

- (1) Develop and implement a fair and independent procedure for evaluating candidates to serve on the board of regents;

- (2) Require candidates and members of their immediate families to disclose any existing or anticipated contracts or financial transactions with the University of Hawaii;
- (3) Actively solicit and accept applications from potential candidates;
- (4) Evaluate candidates for the board of regents on their background, experience, and potential for discharging the responsibilities of a member of the board of regents, based upon the qualifications imposed by the Hawaii State Constitution; and
- (5) Present a list of at least three candidates to the governor for nomination and appointment for each vacant seat on the board of regents of the University of Hawaii.

(c) The candidate advisory council shall initiate the recruitment and evaluation of candidates for each vacancy on the board of regents within:

- (1) Sixty days of a vacancy; or
- (2) At least one hundred twenty days prior to the expiration of a regent's term.

(d) To provide continuity for the board of regents, the governor may recommend to the candidate advisory council the reappointment of a member of the board of regents, subject to the advice and consent of the senate.

(e) The candidate advisory council shall consist of seven voting members to be appointed without regard to section 26-34 as follows:

- (1) One member who shall be appointed by the president of the senate;
- (2) One member who shall be appointed by the speaker of the house of representatives; and
- (3) Five members who shall be appointed by the governor.

A member of the Association of Emeritus Regents of the University of Hawaii, appointed by the chair of the Association of Emeritus Regents of the University of Hawaii, shall serve as an ex officio, nonvoting member of the candidate advisory council, for a term not to exceed two years; provided that the appointment shall run concurrently with the term of the appointing chair.

The president of the senate, speaker of the house of representatives, and governor are encouraged to appoint full-time students of the university, university faculty, university staff, or university alumni to the candidate advisory council; provided that if a full-time student is appointed to the candidate advisory council, the student shall have been enrolled

as a full-time student for at least three consecutive semesters and shall serve for a term of two years.

(f) Voting members of the candidate advisory council shall serve for the following terms:

- (1) Those appointed by the president of the senate and speaker of the house of representatives shall serve for a term of four years; and
- (2) Those appointed by the governor shall serve for a term of four years; provided that such appointments shall run concurrently with the term of the appointing governor.

(g) Appointees to the candidate advisory council shall have a general understanding of the purposes of higher education, the mission and strategic goals of the University of Hawaii system, and the role and responsibilities of the board of regents. Appointees shall be individuals who are widely viewed as having placed the broad public interest ahead of special interests, are respected by the community, and are highly qualified to recruit and evaluate candidates for the governor's consideration.

(h) Any member of the candidate advisory council whose term has expired may continue in office as a holdover member until a successor is appointed; provided that a holdover member shall not hold office for more than six months following the expiration of the member's term of office.

(i) A vacancy occurring in the membership of the candidate advisory council during a term shall be filled for the remainder of the unexpired term thereof by the appointing authority who appointed the member who creates the vacancy.

(j) The candidate advisory council shall operate in a wholly nonpartisan manner. No member of the candidate advisory council shall run for or hold any elected office of the State or any of its political subdivisions while serving on the candidate advisory council. A member of the candidate advisory council shall resign from the candidate advisory council prior to filing nomination papers for an elected office of the State or any of its political subdivisions.

(k) The chairperson of the candidate advisory council shall be elected by a majority of the voting members of the candidate advisory council. A majority of the members to which the candidate advisory council is entitled shall constitute a quorum to conduct business. The concurrence of a majority of the voting members of the candidate advisory council shall be necessary to make any action of the candidate advisory council valid. The candidate advisory council shall meet annually and at other times as necessary. The candidate advisory council shall be exempt from part I of chapter 92.

(1) Members of the candidate advisory council shall serve without compensation but shall be reimbursed for expenses, including travel expenses, necessary for the performance of their duties. [L 2013, c 72, §2]

Note

Regents candidate advisory council; existing members to serve until terms expire. L 2013, c 72, §5.

" **§304A-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:

- (1) Appoint a treasurer and other officers as it deems necessary;
- (2) 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;
- (3) 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;
- (4) Purchase or otherwise acquire lands, buildings, appliances, and other property for the purposes of the university; and
- (5) Expend any sums of money as, from time to time, may be placed at the disposal of the university from whatever source; provided that notwithstanding any other law to the contrary, all documents regarding expenditures and changes thereto, made by the board shall be disclosed in open meetings for the purpose of public comment; provided further that all expenditure requests, proposals, and any other budgetary documents used by the board at an open meeting shall be made available to the public at least six calendar days before the meeting.

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 this section and other 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 powers of the board set forth in section 304A-2672, and 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. [L 2006, c 75, pt of §2; am L Sp 2008, c 6, §3; am L 2010, c 82, §§3, 8; am L 2013, c 87, §3]

" **[§304A-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 [304A-2401] 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. [L 2006, c 75, pt of §2]

" **[§304A-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. [L 2006, c 75, pt of §2]

" **[§304A-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. [L 2006, c 75, pt of §2]

" **[§304A-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. [L 2006, c 75, pt of §2]

" **[§304A-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 304A-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. [L 2006, c 75, pt of §2]

" **[§304A-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. [L 2006, c 75, pt of §2]

" **[§304A-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 [304A-3001] 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. [L 2006, c 75, pt of §2]

" **[§304A-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. [L 2006, c 75, pt of §2]

" **[§304A-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. [L 2006, c 75, pt of §2]

" **[§304A-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. [L 2006, c 75, pt of §2]

" **§304A-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 special fund established under section [304A-2173], public funds, and private grants and gifts to pay for the expenses of operation, including payment of principal and interest on any obligations incurred. [L 2006, c 75, pt of §2; am L 2011, c 124, §3]

" **[§304A-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. [L 2006, c 75, pt of §2]

" **[§304A-118] Graduation pathway system.** (a) The university shall provide guidance to students to increase the rate of on-time graduation. In providing such guidance, the university shall develop a graduation pathway system to direct students toward appropriate options to complete a major course of study, graduate within a reasonable period of time, and understand the dynamics of the local employment market.

(b) In developing the graduation pathway system, the university shall include elements such as structured, default pathways to graduation; academic maps with sequential scheduling of classes; intrusive advising; data on the dynamics of the local employment market, including the availability of employment; and other elements as appropriate to provide guidance to students toward timely graduation. [L 2015, c 104, §2]

" **[§304A-119] University of Hawaii; net-zero energy goal.**

(a) The University of Hawaii shall establish a collective goal of becoming net-zero with respect to energy use, producing as much energy as the system consumes across all campuses, by January 1, 2035.

(b) The University of Hawaii shall establish a benchmark for the amount and value of energy consumed during the 2014-2015 fiscal year, against which it shall measure its progress toward the net-zero energy goal set forth in subsection (a).

(c) The University of Hawaii shall make improvements that advance the net-zero energy goal set forth in subsection (a) a priority.

(d) The University of Hawaii shall submit an annual report to the legislature no later than twenty days before the convening of each regular session. The annual report shall include the following information:

- (1) Overall progress toward the net-zero energy goal set forth in subsection (a);
- (2) Plans and recommendations to advance the net-zero energy goal set forth in subsection (a). [L 2015, c 99, §2]

" **[§304A-120] Campus safety and accountability.** (a) The University of Hawaii shall:

- (1) Train all University of Hawaii students and employees, including security personnel, Title IX coordinators, and residential advisors, on:
 - (A) Public Law 92-318, Title IX of the federal Education Amendments of 1972, as amended;
 - (B) The Violence Against Women Act of 1994, as amended; and
 - (C) University of Hawaii executive policies on sexual harassment, sexual assault, domestic violence, dating violence, and stalking;
- (2) Provide all existing University of Hawaii employees with the training described in paragraph (1) by July 1, 2017, and every two years thereafter;
- (3) Provide all new University of Hawaii employees with the training described in paragraph (1) no later than thirty days after the date of first employment;
- (4) Provide all students with the training described in paragraph (1) annually;
- (5) At each campus of the University of Hawaii system, designate a confidential advocate for students to confidentially discuss incidents of, and obtain information on, sexual harassment, sexual assault, domestic violence, dating violence, stalking, and related issues; provided that confidential advocates and communications received by confidential advocates shall not be exempt from any otherwise applicable mandatory reporting requirements for child and vulnerable adult neglect and abuse as provided by chapters 346 and 350;
- (6) Publicize the name, location, phone number, and e-mail address of the confidential advocate on the website of each respective campus;
- (7) Make available to students and employees written and electronic materials and training programs concerning Title IX of the Higher Education Amendments of 1972; the Violence Against Women Act of 1994; and University of Hawaii policies concerning sexual harassment, sexual assault, domestic violence, dating violence, and stalking; and
- (8) Inform victims in writing of the right to file a police report with the appropriate county police department for investigation and assist victims in submitting the police report.

(b) All University of Hawaii faculty members are designated as "responsible employees" under Public Law 92-318, Title IX of the federal Education Amendments of 1972, as amended, and shall report any violations of University of Hawaii

executive policies regarding sexual harassment, sexual assault, domestic violence, dating violence, and stalking to the Title IX coordinator of the faculty member's campus; provided that any faculty member designated as a confidential advocate pursuant to subsection (a)(5) shall not be a "responsible employee"; provided further that the confidential advocate shall annually provide general statistics to the Title IX coordinator about the number and type of incidents received by the confidential advocate.

(c) All University of Hawaii students and employees shall complete the training required under subsection (a)(1), (a)(2), (a)(3), and (a)(4) or may be subject to fines, sanctions, or other discipline, as deemed [appropriate] by the University of Hawaii.

(d) No later than March 31, 2017, and every two years thereafter, the University of Hawaii shall conduct a campus climate survey of all students. The University of Hawaii shall submit a report to the legislature no later than twenty days before the convening of each regular session that shall include:

- (1) A summary of the most recent campus climate survey results;
- (2) Information on the number of sexual assaults that occurred on a University of Hawaii system campus within the past five years; and
- (3) Recommendations and efforts to improve campus safety and accountability.

(e) The University of Hawaii shall establish policies and procedures to effectuate this section. [L 2016, c 208, §2]

Note

Revision of University of Hawaii executive policies, as necessary, regarding student conduct, nondiscrimination, etc. no later than December 31, 2016; memoranda of understanding with county police departments by December 31, 2016, regarding sexual assaults on university system campuses. L 2016, c 208, §3.

"B. AGRICULTURE

Note

Charcoal additives, soil nutrient enhancement research, phase 1. L 2007, c 266.

[§304A-201] 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). [L 2006, c 75, pt of §2]

" **[§304A-202] 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. [L 2006, c 75, pt of §2]

" **[§304A-203] 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) [Use], 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 [304A-201] to [304A-202] 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 [304A-201] to [304A-202] 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 [304A-201] to [304A-202] and this section and that the personnel or faculties may be used without interference with the effective performance of such other duties and functions. [L 2006, c 75, pt of §2]

" **[§304A-204] 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. [L 2006, c 75, pt of §2]

" **[\$304A-205] 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. [L 2006, c 75 pt of §2]

"C. CAREER AND TECHNICAL EDUCATION UNDER FEDERAL AID

[\$304A-301] 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. [L 2006, c 75, pt of §2]

" **[\$304A-302] 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 [304A-2403], 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. [L 2006, c 75, pt of §2]

" **[§304A-303] 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. [L 2006, c 75, pt of §2]

"[D.] INDEPENDENT AUDIT COMMITTEE

[\$304A-321] Independent audit committee; established; powers; duties. (a) There is established within the board of regents of the University of Hawaii an advisory body to be known as the independent audit committee.

(b) The independent audit committee shall consist of at least three members but not more than five members who shall be appointed by the chairperson of the board of regents, from among the members of the board of regents, except as provided in this subsection. The chair of the independent audit committee shall be selected by and from among its members.

The independent audit committee shall include one or more individuals with financial expertise. If no member of the board of regents has the requisite skills, the board of regents shall execute other arrangements, which may include the appointment of members of the general public who possess the requisite financial expertise to the independent audit committee to ensure that the independent audit committee has the capacity to carry out its duties.

(c) The board of regents shall generally:

- (1) Establish the charter of the independent audit committee and set forth its members' roles and responsibilities;
- (2) Consider changes to the independent audit committee's charter that are necessary in response to new laws, regulations, and best practices; and
- (3) Conduct an annual review of the independent audit committee's charter to reassess its adequacy and adopt any proposed and necessary changes to the charter.

(d) The independent audit committee shall be exempt from chapter 91 and part I of chapter 92 to the extent that the independent audit committee is engaging in discussions or proceedings arising from an investigation by the independent audit committee relating to potentially actionable civil or criminal conduct, whether or not the investigation is pending or outstanding.

(e) The independent audit committee shall undertake professional development to improve the financial expertise of the independent audit committee as a whole, including:

- (1) Attendance at seminars and conferences;
- (2) Attendance at educational sessions including special speakers; and
- (3) The study of analytical tools for audit committees.

(f) The independent audit committee shall engage in operations relating to enterprise risk management including:

- (1) Providing oversight of risk management, which shall include determining overall strategy and influencing the university's risk philosophy;
- (2) Inquiring of the president of the University of Hawaii, the chief financial officer of the university, and external auditors about significant risks or exposures faced by the university;
- (3) Assessing steps that the president of the University of Hawaii has taken or proposes to take to minimize those risks to the university and periodically reviewing compliance with those steps; and
- (4) Reviewing with the general counsel of the University of Hawaii, external auditors, external counsel, and the chief financial officer of the university legal and regulatory matters that, in the opinion of the president of the University of Hawaii, may have a material impact upon the financial statements, related organization compliance policies, and programs and reports received from regulators.

(g) The independent audit committee shall hold meetings as needed to address matters on its agenda, not less frequently than twice per year. The independent audit committee may request the president of the University of Hawaii or others to attend its meetings or to provide pertinent information as necessary. The board of regents shall provide in the charter of the independent audit committee for the independent audit committee to take action between meetings by unanimous consent.

(h) The independent audit committee shall review its effectiveness annually and shall prepare, or oversee the preparation of, an annual report to the board of regents.

(i) The annual report of the independent audit committee shall address other matters affecting the management and organization of the University of Hawaii by engaging in functions, including:

- (1) Reviewing with the president of the University of Hawaii and an external auditor retained pursuant to subsection (r) the effect of any regulatory and accounting initiatives and unique transactions, including relationships with legally separate entities, to determine whether the accounting for those transactions applied best practices;
- (2) Reviewing significant related party transactions;
- (3) Reviewing with the president of the University of Hawaii and the chief financial officer of the university, any interim financial reports or reports on internal control issued with respect to the

university since the last meeting of the independent audit committee; and

- (4) Reviewing with an external auditor who performs an audit the following:
 - (A) All critical accounting policies and practices used by the external auditor; provided that:
 - (i) All alternative treatments of financial information within generally accepted accounting principles have been discussed with the president of the University of Hawaii;
 - (ii) The ramifications of each alternative are discussed; and
 - (iii) The treatment preferred by the university is discussed;
 - (B) Any consultation with audit firms other than the external auditor, including the reasons for, and results of, the consultation; and
 - (C) Any other information relating to significant estimates and judgments.

(j) The independent audit committee shall also review with any external auditor and the chief financial officer of the university matters affecting internal control and an internal audit, including:

- (1) The adequacy of the University of Hawaii's internal control, including computerized information system controls and security; and
- (2) Any related significant findings and recommendations of the internal and external auditors, together with the responses of the president of the University of Hawaii.

(k) The independent audit committee shall also review matters affecting the accounting policies and procedures of the University of Hawaii by:

- (1) Ensuring that accounting policies, procedures, and related controls are documented and reviewed with the independent audit committee;
- (2) Reviewing accounting controls annually;
- (3) Reviewing with the president of the University of Hawaii policies and procedures with respect to officers, key employees, and disqualified persons as defined under section 4958 of the Internal Revenue Code of 1986, as amended; and
- (4) Inquiring of the president of the University of Hawaii and the chief financial officer regarding the financial health of the university.

(1) The independent audit committee shall review the University of Hawaii's antifraud programs and controls and aid in discovering and remedying incidences of fraud.

(m) Notwithstanding part V of chapter 378, the independent audit committee shall review:

(1) Procedures for the receipt, retention, and treatment of complaints received by the University of Hawaii regarding accounting, internal accounting controls, auditing matters, or suspected fraud that may be submitted by any party internal or external to the university; and

(2) As the independent audit committee deems necessary, complaints that may have been received, the current status of such complaints, and the resolution of such complaints, if any resolution has been reached;

provided that any person who makes a complaint covered by this section shall be accorded the same protections as under part V of chapter 378.

(n) With regard to internal control and any internal audit, the independent audit committee shall also:

(1) Review with any external auditor, the chief financial officer of the university, and the comptroller the audit scope and plan of the internal auditors;

(2) Address the coordination of audit efforts to ensure the completeness of coverage, reduction of redundant efforts, and the effective use of audit resources; and

(3) Discuss with the chief financial officer of the university and the external auditor opportunities for reliance by the external auditor on the audit activities of any internal audit.

(o) For internal audits, the independent audit committee shall review the following with the president of the University of Hawaii and the chief financial officer of the university:

(1) Significant findings of internal audits conducted during the university's previous and current fiscal year and the president's responses;

(2) Whether internal auditors have encountered difficulties in discharging their responsibilities in the course of their audits, such as any restrictions on the scope of their work or access to required information;

(3) Any changes required in the scope of internal audits;

(4) The budget and staffing of internal audit operations;

(5) An audit plan to govern internal audits; and

(6) The compliance of internal audits with the Institute of Internal Auditors' International Standards for the Professional Practice of Internal Auditing.

(p) Internal auditors shall meet separately with any external auditor to coordinate audit plans to optimize the ability of the external auditor to rely upon the results of the internal audit team.

(q) The independent audit committee shall annually evaluate the performance of any internal audit, including:

- (1) The adequacy of the audit plan;
- (2) The management of the execution of the audit plan;
- (3) The adequacy of human and other resources available to execute the audit plan;
- (4) The ability of any external auditor to rely upon the internal audit work product in the annual audit performed by an external auditor retained pursuant to subsection (r); and
- (5) The nature of the findings or results of any internal audits.

(r) Subject to approval by the board of regents, the independent audit committee shall select one or more external auditors to be retained by the University of Hawaii. The independent audit committee shall:

- (1) Approve an audit plan;
- (2) Establish the audit fees of any external auditor;
- (3) Pre-approve any non-audit services provided by the external auditor, including tax services, before such services are rendered;
- (4) Review with the president of the University of Hawaii the significance of contracting out audit services; and
- (5) Ensure that single audit obligations are incorporated into an annual audit plan.

(s) The independent audit committee shall review all material written communications between any external auditor and the president of the University of Hawaii, including any management letter or schedule of unadjusted differences.

(t) The independent audit committee shall annually evaluate any external auditor; provided that communications with the external auditor in the evaluation shall be done so as to maintain the open flow of communication between the external auditor and the independent audit committee.

(u) The independent audit committee shall review the following matters relating to any annual audit with the president of the University of Hawaii and any external auditor:

- (1) The university's annual financial statements and related footnotes;
- (2) The external auditor's audit of the financial statements and the external auditor's report;

- (3) The external auditor's judgments about the quality of the university's accounting principles as applied in the university's financial reporting;
- (4) Any significant changes required in the external auditor's audit plan;
- (5) Any serious difficulties or disputes with the president of the University of Hawaii encountered during the audit; and
- (6) Matters to be discussed by the Statement on Auditing Standards No. 114, The Auditor's Communication with those Charged with Governance (AICPA, Professional Standards), related to the conduct of any annual audit.

(v) The independent audit committee may hire external auditors, legal counsel, or other consultants as necessary, to address any issues arising from:

- (1) The execution of the whistleblower protection procedures subject to subsection (m);
- (2) Any statutory or contractual procedures when engaging external resources; and
- (3) The detection of fraud.

(w) The independent audit committee shall submit an annual report to the board of regents and the legislature no later than twenty days prior to the convening of each regular session of the legislature on matters that include the following:

- (1) All instances of material weakness in internal control, including the responses of university management; and
- (2) All instances of fraud, including the responses of university management. [L 2013, c 87, §5]

"PART II. STUDENTS

A. TUITION AND FEES

[§304A-401] 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. [L 2006, c 75, pt of §2]

" **[\$304A-402] 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). [L 2006, c 75, pt of §2]

" **[\$304A-403] 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. [L 2006, c 75, pt of §2]

"B. SCHOLARSHIP AND ASSISTANCE PROGRAMS

[\$304A-501] 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 [304A-2159]. [L 2006, c 75, pt of §2]

Law Journals and Reviews

Making State Merit Scholarship Programs More Equitable and Less Vulnerable. 37 UH L. Rev. 155 (2015).

" **[§304A-502] 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:

- (1) Waive entirely or reduce the tuition fee or any of the other fees for graduate teaching and research assistants;
- (2) 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;
- (3) 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;
- (4) Waive entirely or reduce the tuition fee or any of the other fees for students, resident or nonresident; and
- (5) Waive the nonresident tuition and fee differential for members in good standing of the following military units, regardless of their actual state of residence:
 - (A) The Hawaii national guard; and
 - (B) The federal reserve components of the Army, Navy, Air Force, Marine Corps, and Coast Guard who attend drills with units located within the State.

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. [L 2006, c 75, pt of §2 and c 188, pt of §1]

Revision Note

The amendment by L 2006, c 188, pt of §1 to repealed §304-4 is included in this section pursuant to L 2006, c 75, §18.

" **[§304A-503] 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. [L 2006, c 75, pt of §2]

" **[§304A-504] Hawaii state scholars program.** (a) There is established the Hawaii state scholars program to be administered by the University of Hawaii. This program shall be used to provide financial assistance in the form of scholarships for up to four years to any qualified student enrolled at any campus of the University of Hawaii with the possibility of renewal for a fifth year in exceptional circumstances.

(b) Appropriations for the state scholars program shall be deposited into the [University of Hawaii scholarship and assistance special fund] established pursuant to section [304A-2159]. The number of scholarships awarded and amount of each scholarship shall be determined by the university subject to the availability of funds.

The University of Hawaii shall offer scholarships to pay for educational costs, such as tuition, fees, books, housing, and other educational costs; provided that the scholarship applicant:

- (1) Is a bona fide resident of the State, for tuition purposes, at the time of admission to the university;
- (2) Presents evidence of academic excellence by meeting one or more of the following:
 - (A) Graduation from a public or private high school in the State as a valedictorian of the applicant's class;
 - (B) Has a cumulative high school grade point average of 4.0 as determined for admission to the university; or
 - (C) Has achieved a test score on a standardized college admission test recognized and accepted by the university for admission consideration, such as SAT or ACT, that places the student among the top ten percentile of students taking the test nationwide;

- (3) Enrolls at a University of Hawaii system campus within eighteen months of graduating from high school; and
- (4) Maintains satisfactory progress toward degree completion and a cumulative 3.0 grade point average.
[L 2006, c 257, §2]

Revision Note

Section was enacted as an addition to repealed chapter 304, but is codified to this chapter pursuant to L 2006, c 75, §18.

" **[\$304A-505] Workforce development scholarship program.**

(a) There is established the workforce development scholarship program to be administered by the University of Hawaii to address projected shortfalls in and needs of the workforce. The program shall be used to provide financial assistance for up to three years to any qualified student enrolled at a community college campus of the University of Hawaii.

(b) The number of scholarships awarded and the amount of each scholarship shall be determined by the university and shall be subject to the availability of funds. The University of Hawaii shall offer scholarships to pay for educational costs, such as tuition, fees, books, housing, and other educational costs; provided that the scholarship applicant:

- (1) Qualifies for Hawaii resident tuition;
- (2) Earned a high school diploma or passed the general educational development test; and
- (3) Is eligible for need-based aid according to federal financial aid guidelines.

The scholarship may be renewed annually for up to three years; provided that the student maintains satisfactory academic progress. [L 2006, c 257, §3]

Revision Note

Section was enacted as an addition to repealed chapter 305, but is codified to this chapter pursuant to L 2006, c 75, §18.

"C. STATE HIGHER EDUCATION LOANS

[\$304A-601] State higher education loans; eligibility; amounts. Eligibility for loans from the state higher education loan fund established under section [304A-2160] 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. [L 2006, c 75, pt of §2]

" **[§304A-602] 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. [L 2006, c 75, pt of §2]

Cross References

Professional or vocational licensing sanctions for default on student loans, see §436B-19.6 and chapter 436C.

" **[§304A-603] 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. [L 2006, c 75, pt of §2]

" **[§304A-604] 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. [L 2006, c 75, pt of §2]

"D. Hawaii Educator Loans

§304A-701 Hawaii educator loans; eligibility; amounts; educator loan forgiveness program; repayment; collection. (a)

There is created the Hawaii educator loan program to be administered by the University of Hawaii, in partnership with a financial institution whose operations are principally conducted in Hawaii, to provide financial support to students and teachers who complete a state-approved teacher education program and who agree to teach as a full-time teacher for a period of time to be determined by the university prior to the award of a loan, in:

- (1) The Hawaii public school system in a hard-to-fill position including special education, regular education shortage categories, or Title 1 schools, and in one of the following capacities:
 - (A) 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
 - (B) 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; or
- (2) At a school located in a rural area in the State, as determined by the superintendent of education.

Eligibility shall be determined by the university 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.

(b) 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 seven-year period. The university may charge late fees and all other reasonable costs for the collection of delinquent loans.

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

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

(e) Upon a showing of proof that the loan recipient has completed a state-approved teacher education program and for each year that the loan award recipient teaches in the Hawaii public school system pursuant to subsection (a)(1) or (2), loan forgiveness shall be provided to the recipient as follows:

- (1) Ten per cent of the total amount of the loan award and interest shall be waived every year for the first five years of repayment; and
- (2) Twenty-five per cent of the total amount of the loan award and interest shall be waived every year for the sixth and seventh years of repayment.

(f) If a loan recipient who is a graduate of a state-approved teacher education program subject to this section and teaching pursuant to subsection (a) fails to teach in the Hawaii public school system for the minimum number of years, as determined by the university prior to the loan, from the recipient's original date of employment with the department of education, excluding temporary leaves of absence, then the recipient shall repay any remaining loan balance at the rate of ten per cent simple interest.

(g) In accordance with chapter 103D, the university may enter into written contracts with collection agencies for the purpose of collecting delinquent loans. All payments collected, exclusive of a collection agency's commissions, shall revert, and be credited, to the Hawaii educator loan program revolving fund. A collection agency that enters into a written contract with the university for the collection of delinquent 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. [L 2006, c 75, pt of §2; am L 2007, c 273, §2; am L 2015, c 106, §3]

" **§304A-702 REPEALED.** L 2007, c 273, §3.

" **§304A-703 Capacity of minors in qualifying for Hawaii educator loans.** Any student otherwise qualifying for a loan under the Hawaii educator loan program revolving 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. [L 2006, c 75, pt of §2; am L 2015, c 106, §4]

" **§304A-704 Rules governing Hawaii educator loan program revolving 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. [L 2006, c 75, pt of §2; am L 2015, c 106, §5]

"E. Educational Opportunities

[§304A-801] 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. [L 2006, c 75, pt of §2]

" **§304A-802 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. The program shall also award credits for professional experience gained through service in the United States armed forces. 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;
- (3) The minimum standards or grades necessary to earn college credits; and
- (4) A learning assessment or other criteria to determine college-level learning gained during service in the United States armed forces.

(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. [L 2006, c 75, pt of §2; am L 2012, c 12, §1]

" **§304A-803 Dual credit program.** (a) There is established within the department of education the dual credit 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 public or home-schooled high school student in the ninth, tenth, eleventh, or twelfth grade who:

- (1) Has passed an assessment approved 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 assessment.

"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) One hundred level or above University of Hawaii courses that fulfill an undergraduate or graduate degree course requirement and that are 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. [L 2006, c 75, pt of §2; am L 2015, c 113, §3]

"F. CONTINUING EDUCATION

[§304A-901] 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. [L 2006, c 75, pt of §2]

"PART III. UNIVERSITY PERSONNEL

A. POSITIONS AND COMPENSATION

[§304A-1001] 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. [L 2006, c 75, pt of §2]

" **[\$304A-1002] 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. [L 2006, c 75, pt of §2]

" **[\$304A-1003] 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. [L 2006, c 75, pt of §2]

" **[\$304A-1004] 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. [L 2006, c 75, pt of §2]

" **[§304A-1005] 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. [L 2006, c 75, pt of §2]

Cross References

Attorneys for chartered student organizations, see §304A-2257.

" **[§304A-1006] 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. [L 2006, c 75, pt of §2]

"PART IV. DIVISIONS, DEPARTMENTS, AND PROGRAMS

A. COMMUNITY COLLEGES

[1. GENERAL PROVISIONS]

Revision Note

Subdivision heading added by revisor.

[\$304A-1101] 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. [L 2006, c 75, pt of §2]

Cross References

Apprentice instructor, responsibility, see §372-6.

Workforce development scholarship program, see §304A-505.

" **[\$304A-1102] 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. [L 2006, c 75, pt of §2]

"[2.] CONSTRUCTION ACADEMY

Revision Note

This subdivision was enacted as an addition to repealed chapter 305, but is codified to this chapter pursuant to L 2006, c 75, §18.

[\$304A-1141] Purpose. The purpose of the construction academy is to develop student interest in the construction industry and to build a foundation for general construction

skills that prepares students at the pre-apprenticeship level for more in-depth professional trades training and workforce development. [L 2006, c 234, pt of §2]

" **[§304A-1142] Program; establishment.** There is established within the community college system a construction academy pre-apprenticeship program to meet the critical shortfalls in qualified construction labor projected over the next decade. [L 2006, c 234, pt of §2]

" **[§304A-1143] Administration.** The community college system may plan and administer the construction academy under this [subdivision] with the advice of the workforce development council, the department of education, and the construction industry. [L 2006, c 234, pt of §2]

" **[§304A-1144] Annual report.** The office of the vice president for community colleges shall prepare an annual report to the legislature on the status of the program. This annual report shall include data on the development of the construction academy curriculum and content, teaching standards throughout the system, and overall achievement. The annual report shall be submitted no later than twenty days prior to the convening of each regular legislative session. [L 2006, c 234, pt of §2]

"B. [TEACHER EDUCATION: COLLEGE]

[§304A-1201] 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. [L 2006, c 75, pt of §2]

" **§304A-1202 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 Hawaii state-approved teacher education unit, 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. [L 2006, c 75, pt of §2; am L 2009, c 41, §2]

" **§304A-1203 REPEALED.** L 2010, c 25, §1.

"C. HAWAIIAN LANGUAGE COLLEGE

[§304A-1301] 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. [L 2006, c 75, pt of §2]

" **[§304A-1302] 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. [L 2006, c 75, pt of §2]

"D. SCHOOL OF LAW

[§304A-1351] 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. [L 2006, c 75, pt of §2]

" **[§304A-1352] 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. [L 2006, c 75, pt of §2]

"E. NURSING AND DENTAL HYGIENE: SCHOOL; CENTER

[§304A-1401] 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. [L 2006, c 75, pt of §2]

" **[§304A-1402] 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. [L 2006, c 75, pt of §2]

" **[§304A-1403] 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. [L 2006, c 75, pt of §2]

" **§304A-1404 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 nine voting members, a majority of whom shall be nurses or representatives of nursing organizations, appointed by the governor pursuant to section 26-34 to staggered terms, including:

- (1) Five members who are nurses with an active Hawaii nursing license, including but not limited to:
 - (A) A nursing executive;
 - (B) An advanced practice registered nurse;
 - (C) A nurse affiliated with a nurse collective bargaining organization; and
 - (D) A doctorally-prepared nurse educator or a doctorally-prepared nurse researcher; and
- (2) Four members who have a background or experience in health care delivery, finance, workforce, representation of hospitals and acute care hospitals of the State, and community agencies or consumer groups.

The center may invite other members of the public with specific backgrounds to participate as ex officio, nonvoting members.

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

(d) Each appointed member of the advisory board shall serve a term of four years. No member may be appointed to more than two consecutive terms. Any vacancy in an unexpired term shall be filled by appointment for the remainder of the unexpired term. [L 2006, c 75, pt of §2; am L 2008, c 173, §1; am L 2014, c 62, §2]

Cross References

Center for nursing fee, see §457-9.5.

" **§304A-1405 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) Elect a chairperson;
- (2) Establish committees of the board as needed;
- (3) Seek input from individuals and community groups interested in the issue of nursing shortages;
- (4) Implement the major functions of the center for nursing; and
- (5) Seek and accept nonstate funds for carrying out the mission of the center for nursing. [L 2006, c 75, pt of §2; am L 2014, c 62, §3]

" **[§304A-1406] 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. [L 2006, c 75, pt of §2]

" **[§304A-1407] 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. [L 2006, c 75, pt of §2]

"F. HAWAII GEOPHYSICS AND PLANETOLOGY INSTITUTE

[§304A-1501] 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. [L 2006, c 75, pt of §2]

" **[§304A-1502] 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. [L 2006, c 75, pt of §2]

" **[§304A-1503] 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. [L 2006, c 75, pt of §2]

"G. ENVIRONMENTAL CENTER

[§304A-1551] 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. [L 2006, c 75, pt of §2]

"H. CENTER FOR LABOR EDUCATION AND RESEARCH

[§304A-1601] 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 [304A-1002], 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. [L 2006, c 75, pt of §2]

" **[§304A-1602] 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. [L 2006, c 75, pt of §2]

" **[§304A-1603] 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. [L 2006, c 75, pt of §2]

"I. AQUARIUM AND MARINE LABORATORY

[§304A-1651] 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. [L 2006, c 75, pt of §2]

" **[§304A-1652] 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. [L 2006, c 75, pt of §2]

" **[§304A-1653] 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 [304A-2165]. [L 2006, c 75, pt of §2]

"J. MEDICAL EDUCATION COUNCIL

[§304A-1701] 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 [304A-1703].

"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. [L 2006, c 75, pt of §2]

" **§304A-1702 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) All funding for the graduate medical education program shall be nonlapsing.

(c) 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 304A-1704 and 304A-1705. [L 2006, c 75, pt of §2; am L 2015, c 106, §8]

" **[§304A-1703] 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 [of] 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. [L 2006, c 75, pt of §2]

" **[§304A-1704] 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. [L 2006, c 75, pt of §2]

" **[§304A-1705] 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. [L 2006, c 75, pt of §2]

"K. SPECIAL MEDICAL RESIDENCY PROGRAM

Cross References

Hawaii health corps, see chapter 309H.

[§304A-1751] 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. [L 2006, c 75, pt of §2]

" **§304A-1752 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 or osteopathic physicians under chapter 453 and who volunteer to enter into contracts under section 304A-1753, 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. [L 2006, c 75, pt of §2; am L 2009, c 11, §29]

" **§304A-1753 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;
- (2) Agrees to obtain a permanent license to practice medicine and surgery or osteopathy under chapter 453 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.

[L 2006, c 75, pt of §2; am L 2009, c 11, §30]

" **§304A-1754 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 304A-1753, 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 or osteopathy under chapter 453 but could not fulfill the requirements of section 304A-1753(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. [L 2006, c 75, pt of §2; am L 2009, c 11, §31]

" **§304A-1755 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. [L 2006, c 75, pt of §2; am L 2009, c 11, §32]

"[L.] OTHER SPECIAL MEDICAL OR NURSING PROGRAMS

[§304A-1801] 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. [L 2006, c 75, pt of §2]

" **[§304A-1802] 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. [L 2006, c 75, pt of §2]

"[M.] OTHER SPECIAL PROGRAMS

[§304A-1851] 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. [L 2006, c 75, pt of §2]

" **[§304A-1861] Fostering inspiration and relevance through science and technology pre-academy program; established.** (a) There is established within the University of Hawaii, the fostering inspiration and relevance through science and technology pre-academy program, which shall be administered by the University of Hawaii college of engineering. The mission of the fostering inspiration and relevance through science and technology pre-academy program shall be, with respect to middle schools, to provide additional resources and expertise for the department of education to stimulate the interest and

achievement of students in science, technology, engineering, and mathematics skills.

To achieve its mission, the fostering inspiration and relevance through science and technology pre-academy program shall house and provide direction for the robotics and problem-based, applied learning program under section 304A-1862 and the research experiences for teachers program under section 304A-1863.

(b) The goals of the pre-academy program shall be to:

- (1) Serve students between fourth and eighth grades, with problem-based, applied learning experiences in science, technology, engineering, and mathematics-related skills in a manner that complements the academic program at public high schools; and
- (2) Motivate and engage students in science, technology, engineering, and mathematics programs.

(c) The pre-academy program shall encourage partnerships with other relevant programs within the University of Hawaii system, department of education, project EAST (environmental and spatial technology) program, and appropriate public and private agencies, to establish a program of problem-based, applied learning for elementary and middle school students in science, technology, engineering, and mathematics disciplines. School participation in the fostering inspiration and relevance through science and technology pre-academy programs shall be voluntary.

(d) The fostering inspiration and relevance through science and technology pre-academy program shall support development of additional problem-based, applied learning projects and summer science, technology, engineering, and mathematics programs for middle school teachers. For additional problem-based, applied learning projects, priority shall be determined in collaboration with participating teachers. Areas may include global positioning system technology, ocean science, astronomy, earth science and wireless communications technology, conservation biology, and other science, technology, engineering, and mathematics skills-stimulating subjects as appropriate.

(e) The fostering inspiration and relevance through science and technology pre-academy program shall develop program evaluation measures to ensure that all programs conducted under the pre-academy program are contributing to the advancement of science, technology, engineering, and mathematics academics in the elementary and middle schools through research. [L 2007, c 111, pt of §11]

" **[§304A-1862] Robotics and problem-based, applied learning program; established.** (a) There is established within the University of Hawaii the robotics and problem-based, applied learning program, which shall be administered by the University of Hawaii college of engineering. The mission of the robotics and problem-based, applied learning program shall be to develop science, technology, engineering, and mathematics skills among students in the fostering inspiration and relevance through science and technology pre-academy program through robotics- and problem-based, applied learning projects and competitions. The robotics and problem-based, applied learning program shall work with existing programs to expand and strengthen activities, including but not limited to National Aeronautics and Space Administration explorer schools; fostering inspiration and relevance through science and technology robotics, lego league, and vex challenges or competitions; botball educational robotics programs; and underwater robotics challenges.

(b) The robotics and problem-based, applied learning program shall coordinate and cooperate with the fostering inspiration and relevance through science and technology pre-academy program in establishing an integrated system of science, technology, engineering, and math-related, problem-based, applied learning programs under the administration of the pre-academy program. The robotics and problem-based, applied learning program shall enlist, encourage, train, and support volunteer teachers and other mentors to conduct robotics and space-related programs at the school level. [L 2007, c 111, pt of §11]

" **[§304A-1863] Research experiences for teachers program; established.** (a) There is established within the University of Hawaii the research experiences for teachers program, which shall be administered by the University of Hawaii college of engineering. The purpose of the research experiences for teachers program shall be to support the development of middle school teacher skills and knowledge, and the development of middle school curriculum materials in science, technology, engineering, and mathematics subject areas, with a focus on wireless communications.

(b) The research experiences for teachers program shall:

- (1) Educate teachers in the advances in technology in wireless communications and engineering;
- (2) Enhance teacher research skills through the use of software and innovative uses of equipment;
- (3) Provide teacher participants with hands-on research experiences;

- (4) Support teachers in developing classroom lessons and program activities that meet their course objectives and student performance standards; and
 - (5) Provide opportunities to share and collaborate with other teacher participants to ensure successful implementation of curricula and programs.
- (c) Specific activities of the research experiences for teachers program shall include:
- (1) Providing on-site lectures, demonstrations, and laboratory tours at the University of Hawaii and middle schools;
 - (2) Reviewing wireless communications concepts, methods, history, and applications;
 - (3) Reviewing engineering and relevant science concepts, research methodology, and real-world applications;
 - (4) Reviewing key components of inquiry-based teaching materials;
 - (5) Providing teachers with technical content support;
 - (6) Assisting teachers in adapting state-of-the-art engineering research into a meaningful classroom experience for students;
 - (7) Providing seminars to transfer relevant information and experiences among teacher participants and sponsors;
 - (8) Providing summer engineering workshop for teachers; and
 - (9) Maintaining a website for content and program dissemination. [L 2007, c 111, pt of §11]

" **[§304A-1864] `Ulu`ulu: The Henry Ku`ualoha Giugni Moving Image Archive of Hawai`i.** `Ulu`ulu: The Henry Ku`ualoha Giugni Moving Image Archive of Hawai`i is designated as the official state archive for moving images. The qualifying standards and conditions related to the receipt of funds contained in chapter 42F shall not apply to funds received by `Ulu`ulu: The Henry Ku`ualoha Giugni Moving Image Archive of Hawai`i; provided that if the archive contracts with a recipient or provider, the qualifying standards, conditions, and other provisions of chapter 42F shall apply to the recipient or provider and the contract. [L 2012, c 90, §2]

Cross References

For special fund, see §304A-2180.

" **[§304A-1865] Medical marijuana testing and research programs; established.** (a) To the extent permitted by federal and state law, and subject to applicable certification by the department of health, the University of Hawaii may establish medical marijuana testing and research programs that qualify as commercial enterprises of the university under section 304A-113 that provide services to state-approved medical marijuana dispensaries, including assessment of marijuana plant cannabinoid content and concentration, purity of manufactured marijuana products, or additional testing requested by the department of health. The university may assess fees or other charges for services. The fees and charges shall be fair and equitable with respect to the level and quality of services and commercially reasonable. In establishing or amending fees or charges for these services, the university shall be exempt from the requirements of chapter 91. The fees and charges may be established at an open meeting of the board of regents subject to chapter 92.

(b) The fees and charges collected pursuant to subsection (a) shall be deposited into the University of Hawaii commercial enterprises revolving fund established by section 304A-2251.

(c) To the extent permitted by federal and state law, and subject to applicable regulations, compliance standards, and protocols on research activity, the university may conduct research on the efficacy of medical marijuana use, its health outcomes and social impacts, and related safety issues.

(d) This section shall be construed to provide discretionary authority to the university, and nothing in this section shall require the university to engage in any activity that might jeopardize its eligibility to receive any form of state or federal assistance or benefit. [L 2016, c 230, §21]

"[N.] HAWAII NATURAL ENERGY INSTITUTE

[§304A-1891] Hawaii natural energy institute; structure; function. (a) There is established the Hawaii natural energy institute at the University of Hawaii. 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 board of regents shall have the same powers over the institute and its staff as over the university and its facilities.

(b) The director of the institute shall coordinate the institute's work with the energy resources coordinator in

carrying out duties pursuant to section 196-4 in the area of research and development of renewable energy sources.

- (c) The institute shall:
 - (1) Develop renewable sources of energy for power generation and transportation fuels by working in coordination with state agencies, federal agencies, and private entities;
 - (2) Conduct research and development of renewable sources of energy;
 - (3) Demonstrate and deploy efficient energy end-use technologies, including those that address peak electric demand issues;
 - (4) Aggressively seek matching funding from federal agencies and private entities for its research and development and demonstration activities; and
 - (5) Report annually to the legislature, no later than twenty days prior to the convening of each regular session, on its activities, expenditures, contracts developed, advances in technology, its work in coordination with state agencies and programs, and recommendations for proposed legislation. [L 2007, c 253, pt of §2]

" **[§304A-1892] Advisory council to Hawaii natural energy institute.** (a) The institute shall establish an advisory council of seven members, appointed by the president from a list of nominees submitted by the director of the institute and the energy resources coordinator of the department of business, economic development, and tourism. The members of the advisory council shall be from the general public, the energy industry, technology providers, state agencies whose primary functions relate to energy planning and policy analyses, and environmental groups, or other relevant stakeholder representatives as recommended by the director of the institute and the energy resources coordinator. Members shall be selected on the basis of their proven expertise and interest in the field of renewable energy. The director of the institute and the energy resources coordinator shall serve as ex officio nonvoting members of the advisory council.

(b) The primary role of the advisory council shall be to make recommendations to the director on the award of contracts and grants funded through the institute.

(c) The advisory council may advise the director on matters of strategic planning, goals and objectives, significant initiatives of the institute, and other matters as determined by the director. [L 2007, c 253, pt of §2]

" **§304A-1893 REPEALED.** L 2007, c 253, §8; L 2012, c 151, §1.

" **[§304A-1893.1] Periodic evaluation.** (a) Evaluations shall be conducted of the projects and activities funded by the energy systems development special fund. Using objective criteria, the evaluation shall assess the degree to which the projects and activities comport with and achieve the stated objectives of the energy systems development special fund pursuant to section 304A-2169.1.

(b) The initial evaluation shall be conducted beginning July 1, 2017, and every three years thereafter by a two-person panel of independent energy and environmental technical experts who shall be appointed by the director of business, economic development, and tourism and who shall not be affiliated with the Hawaii natural energy institute. The panel shall submit a report of the findings and recommendations of each evaluation to the legislature no later than twenty days prior to the convening of the following regular session. The Hawaii natural energy institute shall cooperate with and provide support to the evaluation panel. [L 2014, c 107, pt of §1]

" **§304A-1894 REPEALED.** L 2007, c 253, §8; L 2012, c 151, §1.

" **[§304A-1894.1] Plan of action.** Prior to the initiation of any projects or activities authorized by section 304A-2169.1, the Hawaii natural energy institute shall develop a plan of action in coordination with the state energy resources coordinator with the intent of promoting effective prioritization and focusing of efforts consistent with the State's energy programs. [L 2014, c 107, pt of §2]

"[O.] MAUNA KEA LANDS

[§304A-1901] Definitions. As used in this subpart:

"Board of regents" means the board of regents of the University of Hawaii.

"Fees" includes rents on leases of Mauna Kea lands, moneys received for use of Mauna Kea lands, moneys attributable to

commercial activities on Mauna Kea lands, and moneys received for the use of facilities and programs on Mauna Kea lands.

"Mauna Kea lands" means the lands that the University of Hawaii is leasing from the board of land and natural resources, including the Mauna Kea Science Reserve, Hale Pohaku, the connecting roadway corridor between Hale Pohaku and the Mauna Kea Science Reserve, and any other lands on Mauna Kea that the University of Hawaii leases or over which the University of Hawaii acquires control or jurisdiction. [L 2009, c 132, pt of §2]

" **[§304A-1902] Mauna Kea lands; fees; lease agreements.** (a) The board of regents may charge a fee for use of the Mauna Kea lands and for the use of facilities and programs related to the Mauna Kea lands.

(b) The board of regents may enter into lease agreements for the Mauna Kea lands; provided that the University of Hawaii shall comply with all statutory requirements in the disposition of ceded lands.

(c) In establishing the fees, the board of regents shall be exempt from the public notice, public hearing, and gubernatorial approval requirements of chapter 91; provided that the fees shall be established at an open public meeting pursuant to chapter 92. The fees shall be deposited into the Mauna Kea lands management special fund established under section 304A-2170. [L 2009, c 132, pt of §2]

" **[§304A-1903] Mauna Kea lands[;] rules.** The board of regents may adopt rules pursuant to chapter 91 to regulate public and commercial activities on Mauna Kea lands.

In adopting these rules, the board shall:

- (1) Strive for consistency with the administrative rules of the division of forestry and wildlife of the department of land and natural resources related to forest reserves and natural area reserves;
- (2) Consult with the office of Hawaiian affairs to ensure that these rules shall not affect any right, customarily and traditionally exercised for subsistence, cultural, and religious purposes and possessed by ahupuaa tenants who are descendants of native Hawaiians who inhabited the Hawaiian Islands prior to 1778, subject to the right of the State to regulate such rights; and
- (3) Hold at least one public hearing, in addition to the public hearing at which decision-making on the

proposed rule is made, on the island of Hawaii. [L 2009, c 132, pt of §2]

" **[\$304A-1904] Violations; penalties; costs; collection.**

(a) In consultation with the office of Hawaiian affairs, the board of regents may set and provide for the assessment and collection of administrative fines for violations of this subpart or rules adopted hereunder; provided that the fines shall be set as follows:

- (1) For the first violation, not more than \$2,500;
- (2) For the second violation within five years of a previous violation, not more than \$5,000; and
- (3) For the third violation within five years of a prior violation and any subsequent violation, not more than \$10,000.

(b) Each day that the violation continues shall constitute a separate offense.

(c) The costs of any enforcement proceedings, including the costs of contested case proceedings, may be assessed against a party found to be in violation.

(d) Any action taken to impose or collect the penalty provided for in this section shall be considered a civil action. [L 2009, c 132, pt of §2]

" **[\$304A-1905] Mauna Kea lands; reporting requirements.** The board of regents shall report annually to the legislature, no later than twenty days prior to the convening of each regular session, on the Mauna Kea lands activities, current and pending lease agreements and fees, the status of current and pending administrative rules, income and expenditures of the Mauna Kea lands [management] special fund established in section 304A-2170, and any other issues that may impact the activities of the Mauna Kea lands. [L 2009, c 132, pt of §2]

"PART V. FINANCIAL STRUCTURE

A. BUDGET PREPARATION AND ADMINISTRATION

[\$304A-2001] 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. [L 2006, c 75, pt of §2]

" **[§304A-2002] 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. [L 2006, c 75, pt of §2]

" **[§304A-2003] 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 304A-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 [304A-2153]. Income from university projects as defined and described in section [304A-2167.5] and sections [304A-2671] to [304A-2684], may be credited to special or other funds. [L 2006, c 75, pt of §2]

" **[§304A-2004] 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. [L 2006, c 75, pt of §2]

" **[§304A-2005] 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. [L 2006, c 75, pt of §2]

" **[§304A-2006] 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. [L 2006, c 75, pt of §2]

" **§304A-2007 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. [L 2006, c 75, pt of §2; am L 2011, c 92, §§1, 3]

"B. GENERAL FUNDS

[§304A-2101] 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 [304A-2153] 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. [L 2006, c 75, pt of §2]

"C. SPECIAL FUNDS

[§304A-2151] 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. [L 2006, c 75, pt of §2]

" **[§304A-2152] 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. [L 2006, c 75, pt of §2]

" **§304A-2153 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 304A-2159.

(d) In estimating its quarterly budget requirements, each campus of the University of Hawaii shall prepare a plan for the fiscal year for the operation of each of the programs that it is responsible for administering. The operations plan shall be:

- (1) In such form and content as the vice president for budget and finance and chief financial officer of the University of Hawaii may prescribe; and
- (2) Submitted, together with the estimated quarterly budget requirements, to the vice president for budget and finance and chief financial officer on such date as the vice president for budget and finance and chief financial officer may prescribe.

(e) The president and vice president for budget and finance and chief financial officer of the University of Hawaii:

- (1) Shall review the operations plan for each campus to determine if:
 - (A) It is consistent with the policy decisions of the board of regents and appropriations by the legislature;
 - (B) It reflects proper planning and efficient management methods; and
 - (C) Appropriations have been made for the planned purpose and will not be exhausted before the end of the fiscal year;
- (2) Shall approve the operations plan for each campus if they determine that the operations plan meets the requirements of paragraph (1); and
- (3) May modify or withhold the planned expenditures of any campus at any time during the appropriations period.

(f) At the end of each fiscal year, the moneys in the University of Hawaii tuition and fees special fund for each campus shall lapse to the credit of program identification number UOH900 (University of Hawaii, system wide support). [L 2006, c 75, pt of §2; am L 2015, c 236, §1]

" **[§304A-2154] 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 [304A-401]. [L 2006, c 75, pt of §2]

" **[§304A-2155] 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. [L 2006, c 75, pt of §2]

" **[§304A-2156] 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. [L 2006, c 75, pt of §2]

" **[§304A-2157] 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. [L 2006, c 75, pt of §2]

" **§304A-2158 REPEALED.** L 2011, c 124, §11.

" **[§304A-2159] 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 [304A-501]. 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, funds transferred by the university from the tuition and fees special fund pursuant to section [304A-2153], and appropriations for the state scholars program; provided that state funds appropriated for any scholarship program, including but not limited to the B Plus scholarship program, the Hawaii state scholars program, and the workforce development scholarship program, shall be kept in a separate and distinct account.

(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 [304A-503] 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. [L 2006, c 75, pt of §2 and c 257, §4]

Revision Note

The amendment by L 2006, c 257, §4 to repealed §304-16.6 is included in this section pursuant to L 2006, c 75, §18.

" **[§304A-2160] 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 [304A-601] pursuant to rules adopted by the board. [L 2006, c 75, pt of §2]

" **§304A-2161 Renumbered as §304A-2276.**

" **[§304A-2162] Community colleges special fund.** (a) Section [304A-2003] 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 [304A-2153];
- (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. [L 2006, c 75, pt of §2]

" **[§304A-2163] 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 [304A-1404]. The fund shall be administered by the university, and moneys in the fund shall be expended to support the center's activities. [L 2006, c 75, pt of §2]

" **§304A-2164 REPEALED.** L 2015, c 106, §9.

" **[§304A-2165] 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. [L 2006, c 75, pt of §2]

" **[§304A-2166] 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. [L 2006, c 75, pt of §2]

" **§304A-2167 REPEALED.** L 2007, c 161, §3.

Cross References

For present provision, see §304A-2167.5.

" **[§304A-2167.5] University revenue-undertakings fund.** (a) There is established a special fund for the University of Hawaii to be known as the university revenue-undertakings fund into which all revenue of the university under subpart D of part VI, including any appropriation allocated pursuant to this section received from, or related to, university projects, university systems, or networks or any combination thereof, constructed or maintained by the board under subpart D of part VI shall be deposited. At the direction of the board, there may be established accounts in the university revenue-undertakings fund as required by the resolution authorizing revenue bonds.

If revenue bonds are issued under subpart D of part VI payable from the revenue of a university parking facility or the revenue of a university system that includes a university parking facility, the board in the resolution authorizing revenue bonds may direct that all or any part of the moneys required by this chapter to be paid into the university parking revolving fund created by section 304A-2275 shall be deposited in the university revenue-undertakings fund in lieu of being deposited in the university parking revolving fund.

(b) All moneys in the university revenue-undertakings fund shall be applied in accordance with the resolution of the board authorizing the issuance of revenue bonds under subpart D of part VI, as follows:

- (1) To provide for all costs of construction, operation, repair, and maintenance of a university project, university system, network, or any combination thereof, including reserves therefor;
- (2) To pay when due all revenue bonds and interest thereon, for the payment of which all or any part of the revenue of the university 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 D of part VI;
- (4) To reimburse the general fund of the State for principal and interest on general obligation bonds issued for all university projects, university systems, networks, or any combination thereof, or issued to refund any of such general obligation bonds, to the extent required by law; and
- (5) To provide a reserve for betterments and improvements to and renewals and replacements of, university projects, university systems, networks, or any combination thereof.

If adequate provision is made for all the foregoing purposes, and if permitted by law and the covenants in the resolution authorizing the issuance of revenue bonds under subpart D of part VI, any moneys remaining in the university revenue-undertakings fund at the end of a fiscal year may be expended by the board in subsequent years in furtherance of any of the purposes of the university.

(c) The following terms used in this section shall be as defined in section 304A-2671: "appropriation", "board", "construction", "cost of construction", "cost of maintenance", "maintenance", "network", "reserves", "revenue bonds", "revenue of the university", "university project", and "university system". [L 2007, c 161, §2]

" **§304A-2168 Hawaii cancer research special fund.** (a) There is established within the state treasury a special fund to be known as the Hawaii cancer research special fund to be administered and expended by the University of Hawaii.

(b) The moneys in the special fund shall be used by the University of Hawaii for the cancer research center of Hawaii's research and operating expenses and capital expenditures.

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

- (1) Moneys collected pursuant to section 245-15;
- (2) All other fees, charges, and other moneys received in conjunction with programs of the cancer research center of Hawaii;
- (3) Transfers from other accounts or funds; and
- (4) Interest earned or accrued on moneys in the special fund.

(d) Beginning on January 1, 2010, the University of Hawaii shall report semi-annually to the legislature on the moneys in the Hawaii cancer research special fund, including deposits, expenditures, and other transactions. The reports shall explain in detail all expenditures from the special fund. [L 2006, c 316, §2; am L 2007, c 102, §3; am L 2008, c 84, §2; am L 2009, c 28, §1]

Revision Note

Section was enacted as an addition to repealed chapter 304, but is codified to this chapter pursuant to L 2006, c 75, §18.

" **§304A-2169 REPEALED.** L 2007, c 253, §8; L 2012, c 151, §1.

" **[§304A-2169.1] Energy systems development special fund.**

(a) There is established the energy systems development special fund for the purpose of developing an integrated approach to and portfolio management of renewable energy and energy efficiency technology projects that will reduce Hawaii's dependence on fossil fuel, imported oil, and other imported energy resources and move Hawaii toward energy self-sufficiency.

(b) Deposits into the special fund may be from the following:

- (1) Appropriations from the legislature;
- (2) A portion of the environmental response, energy, and food security tax pursuant to section 243-3.5; and
- (3) Investment earnings, gifts, donations, or other income received by the Hawaii natural energy institute.

(c) The Hawaii natural energy institute shall administer the special fund and may expend revenues of the special fund for the following activities:

- (1) Obtaining matching funds from federal and private sources for research, development, and demonstration of renewable energy sources;
- (2) Awarding contracts or grants to develop and deploy technologies that will reduce Hawaii's dependence on imported energy resources and imported oil. Projects may be commissioned that:
 - (A) Balance the risk, benefits, and time horizons of the investment to ensure tangible benefits to the Hawaii consumer, with priority given to short-term technology development;
 - (B) Emphasize innovative and renewable energy supply and energy efficient end use technologies focusing on environmental attributes, reliability, and affordability;
 - (C) Enhance transmission and distribution capabilities of renewable energy supply for electricity;
 - (D) Enhance reliability and storage capabilities of renewable energy for electricity;
 - (E) Ensure that research, deployment, and demonstration efforts build on existing programs and resources and are not duplicated;
 - (F) Address critical technical and scientific barriers to achieving energy self-sufficiency by reducing dependence on imported oil and imported energy resources;
 - (G) Ensure that technology used and developed for renewable energy production and distribution will be commercially viable; and
 - (H) Give priority to resources that are indigenous and unique to Hawaii; and
- (3) Managing the portfolio of projects commissioned under this subsection. [L 2014, c 107, pt of §2]

" **[§304A-2170] Mauna Kea lands management special fund.** (a) There is established the Mauna Kea lands management special fund, into which shall be deposited:

- (1) Appropriations by the legislature;
- (2) All net rents from leases, licenses, and permits, including fees and charges for the use of land and facilities within the Mauna Kea lands;
- (3) All moneys collected for violations of subpart 0 of part IV; and
- (4) Interest earned or accrued on moneys in the special fund.

- (b) The proceeds of the special fund shall be used for:
- (1) Managing the Mauna Kea lands, including maintenance, administrative expenses, salaries and benefits of employees, contractor services, supplies, security, equipment, janitorial services, insurance, utilities, and other operational expenses; and
 - (2) Enforcing administrative rules adopted relating to the Mauna Kea lands.

(c) No moneys deposited into the Mauna Kea lands management special fund may be used by the governor or the director of finance as a justification for reducing any budget request or allotment to the University of Hawaii unless the University of Hawaii requests the reduction.

(d) The University of Hawaii may establish separate accounts within the special fund for major program activities.

(e) All expenditures from the special fund shall be subject to legislative appropriation.

(f) For the purposes of this section, "Mauna Kea lands" shall mean the same as defined in section 304A-1901. [L 2009, c 132, §3]

" **§304A-2171 John A. Burns school of medicine special fund.**

(a) There is established the John A. Burns school of medicine special fund, to be administered and expended by the University of Hawaii.

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

- (1) Appropriations by the legislature;
- (2) Physician workforce assessment fees established pursuant to section 453-8.8;
- (3) Grants, donations, gifts, or other income received for the purposes of the special fund; and
- (4) Interest earned or accrued on moneys in the special fund.

(c) [*Repeal and reenactment on June 30, 2017. L 2012, c 186, §5.*] Moneys in the special fund shall be used to support the John A. Burns school of medicine's activities related to physician workforce assessment and planning within Hawaii; provided that of the physician workforce assessment fees transferred and deposited into the special fund pursuant to section 453-8.8, no less than fifty per cent of the total amount of assessment fees deposited shall be used for purposes identified by the Hawaii medical education council to support physician workforce assessment and planning efforts, including the recruitment and retention of physicians, for rural and medically underserved areas of the State; provided further that expenditures from the special fund shall be limited to no more

than \$245,000 annually. This shall include but not be limited to maintaining accurate physician workforce assessment information and providing or updating personal and professional information, that shall be maintained in a secure database. The John A. Burns school of medicine may disclose information specific to any physician only with the express written consent of that physician. [L Sp 2009, c 18, §2; am L 2012, c 186, §1]

Note

Disbursements to fund (repealed June 30, 2017). L Sp 2009, c 18, §4; L 2012, c 186, §3(2).

Physician workforce assessment report to legislature beginning 2011 and every year thereafter. L Sp 2009, c 18, §5; L 2012, c 186, §3(1).

" **[§304A-2172] University of Hawaii capital improvements program project assessment special fund.** (a) There shall be established in the university a special fund to be known as the University of Hawaii capital improvements program project assessment special fund for the purpose of defraying the costs involved in:

- (1) Carrying out capital improvements program projects managed by the university;
- (2) Equitably assessing, collecting, and distributing moneys for current and other expenses associated with capital improvements program projects, repair and maintenance projects, and major renovation projects;
- (3) Managing the payment of expenses assessable against capital improvements program projects managed by or through the university, such as printing, employee transportation requirements, project-related travel costs, travel per diem, and car mileage reimbursements, in accordance with applicable laws and collective bargaining agreements; and
- (4) Managing funds representing accumulated vacation and sick leave credits and retirement benefits for non-general funded employees under the capital improvements program projects managed by the university.

(b) The president or the president's designee shall make reasonable assessments on capital improvements program projects, repair and maintenance projects, and major renovation projects managed by the university to carry out the program of centralized management, oversight, and administration of the projects. The assessments shall be based on the evaluation by

the president or the president's designee of the reasonable historic and projected costs of providing such services. All assessments collected shall be deposited into the University of Hawaii capital improvements program project assessment special fund.

(c) The University of Hawaii capital improvements program project assessment special fund shall be administered by the office of capital improvements of the university.

(d) All expenditures from the University of Hawaii capital improvements program project assessment special fund shall be made by the president or the president's designee in accordance with applicable laws and rules. [L 2010, c 202, §1]

" **[§304A-2173] Child care programs special fund.** There is established a child care programs special fund for the operation of child care programs established under section 304A-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 special fund. Expenditures from the special 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. [L 2006, c 75, pt of §2; am L 2011, c 124, §4]

Revision Note

Section was renumbered from §304A-2252 pursuant to §23G-15.

" **§304A-2174 REPEALED.** L 2015, c 106, §12.

" **§304A-2175 REPEALED.** L 2015, c 106, §14.

" **[§304A-2176] University of Hawaii at Manoa intercollegiate athletics special fund and University of Hawaii at Hilo intercollegiate athletics special fund.** Notwithstanding any other law to the contrary, there are established the University of Hawaii at Manoa intercollegiate athletics special fund and the University of Hawaii at Hilo intercollegiate athletics special 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 special funds.

The university shall maintain the financial integrity and viability of these special funds, including the maintenance of an adequate reserve to cope with the various factors that impact the revenue structure of an intercollegiate athletic program. [L 2006, c 75, pt of §2; am L 2011, c 124, §8]

Revision Note

Section was renumbered from §304A-2261 pursuant to §23G-15.

" **§304A-2177 REPEALED.** L 2015, c 106, §16.

" **[§304A-2178] University of Hawaii-Hilo theatre special fund.** There is established the University of Hawaii-Hilo theatre special fund, which shall consist of admissions, advertising sales, corporate sponsorships, marketing, merchandising, donations, fundraising, fees, charges, and other moneys collected in conjunction with the University of Hawaii-Hilo theatre program. The special 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. [L 2006, c 75, pt of §2; am L 2011, c 124, §10]

Revision Note

Section was renumbered from §304A-2271 pursuant to §23G-15.

" **§304A-2179 Renumbered as §304A-2277.**

" **[§304A-2180] 'Ulu'ulu: The Henry K'ualoha Giugni Moving Image Archive of Hawai'i special fund.** There is established the

'Ulu'ulu: The Henry Ku'ualoha Giugni Moving Image Archive of Hawaii'i special fund into which shall be deposited any legislative appropriations, federal or private grants, and any other funds collected for the purposes of the 'Ulu'ulu: The Henry Ku'ualoha Giugni Moving Image Archive of Hawaii'i designated under section 304A-1864. The fund shall be administered and expended by the University of Hawaii. Moneys in the fund shall be expended to support the activities of the moving image archive. [L 2012, c 90, §3]

"D. REVOLVING FUNDS

§304A-2251 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 and all fees and charges collected pursuant to section 304A-1865. Revenues deposited into this fund 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. Any law to the contrary notwithstanding, the university may transfer all funds at its disposal, with the exception of general funds and University of Hawaii tuition and fees special fund moneys, into the revolving fund to finance the establishment of new commercial enterprises; except that no more than ten per cent of the tuition and fees special fund moneys may be loaned to the revolving fund to finance the establishment of new commercial enterprises. 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. [L 2006, c 75, pt of §2; am L 2008, c 106, §§1, 3; am L 2009, c 11, §13; am L 2010, c 42, §1; am L 2016, c 230, §22]

" **§304A-2252 Renumbered as §304A-2173.**

" **§304A-2253 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 special 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 section 304A-107 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. [L 2006, c 75, pt of §2; am L 2011, c 124, §5; am L 2015, c 106, §11]

" **§304A-2254 Renumbered as §304A-2174.**

" **[§304A-2255] 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. [L 2006, c 75, pt of §2]

" **[§304A-2256] 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. [L 2006, c 75, pt of §2]

" **[§304A-2257] 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. [L 2006, c 75, pt of §2]

" **§304A-2258 REPEALED.** L 2011, c 124, §12.

" **§304A-2259 Renumbered as §304A-2175.**

" **[§304A-2260] 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. [L 2006, c 75, pt of §2]

" **§304A-2261 Renumbered as §304A-2176.**

" **§304A-2262 Renumbered as §304A-2177.**

" **[§304A-2263] 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. [L 2006, c 75, pt of §2]

" **§304A-2264 REPEALED.** L 2011, c 124, §13.

" **§304A-2265 REPEALED.** L 2011, c 124, §14.

" **§304A-2266 REPEALED.** L 2011, c 124, §15.

" **[§304A-2267] 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. [L 2006, c 75, pt of §2]

" **§304A-2268 REPEALED.** L 2015, c 106, §20.

" **§304A-2269 REPEALED.** L 2011, c 124, §16.

" **[§304A-2270] 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 [304A-1301]. [L 2006, c 75, pt of §2]

" **§304A-2271 Renumbered as §304A-2178.**

" **[§304A-2272] 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. [L 2006, c 75, pt of §2]

" **[§304A-2273] 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. [L 2006, c 75, pt of §2]

" **[§304A-2274] 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. [L 2006, c 75, pt of §2]

" **[§304A-2275] 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 [304A-2167.5]. [L 2006, c 75, pt of §2]

" **[§304A-2276] Hawaii educator loan program revolving fund.** There is established the Hawaii educator loan program revolving fund, for the purpose of providing loans pursuant to section 304A-701. Appropriations made by the legislature, private contributions, repayment of loans, including interest and payments received on account of principal, and moneys from other sources shall be deposited into the revolving fund and shall be expended by the university. An amount from the revolving 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 revolving fund. [L 2006, c 75, pt of §2; am L 2015, c 106, §6]

Revision Note

Section was renumbered from §304A-2161 pursuant to §23G-15.

" **[§304A-2277] Professional student exchange program revolving fund.** (a) There is established a professional student exchange program revolving fund to be administered and expended by the Hawaii commission.

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

- (1) Principal and interest payments received as repayment of financial support from former or current participants of the professional student exchange program, pursuant to section 304A-3209; and

- (2) Interest earned or accrued on moneys in the revolving fund.
- (c) Moneys in the revolving fund shall be expended to:
 - (1) Support the professional student exchange program's activities, including the provision of financial support to participants at Western Interstate Commission for Higher Education receiver institutions; and
 - (2) Enforce the collection of delinquent obligations. [L 2012, c 137, pt of §1; am L 2015, c 106, §18]

Revision Note

Pursuant to §23G-15, this section:

- (1) Enacted as an addition to part VII, subpart D, was redesignated to this part; and
- (2) Was renumbered from §304A-2179.

"E. Trust Funds

§304A-2351 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, 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. 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. [L 2006, c 75, pt of §2; am L 2014, c 96, §18; am L 2015, c 35, §7]

" **[§304A-2352] 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. [L 2006, c 75, pt of §2]

" **§304A-2353 REPEALED.** L 2015, c 106, §22.

" **§304A-2354 REPEALED.** L 2015, c 106, §24.

" **[§304A-2355] University of Hawaii quasi-endowment trust fund.** There is established the University of Hawaii quasi-endowment trust fund into which shall be deposited income derived from the university's endowment fund. Income deposited into this account may be expended by the university as set forth by the board of regents in policies and guidelines for costs and expenses associated with student financial aid programs, including scholarships and student support services, awards, and project opportunities for the university. [L 2015, c 106, §1]

"F. FEDERAL FUNDS

[§304A-2401] 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. [L 2006, c 75, pt of §2]

" **[§304A-2402] 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. [L 2006, c 75, pt of §2]

" **[§304A-2403] 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 [304A-301]. [L 2006, c 75, pt of §2]

"PART VI. FACILITIES

A. UNIVERSITY PROJECTS--REPEALED

§§304A-2501 to 304A-2518 REPEALED. L 2007, c 161, §4.

Cross References

For present provisions, see §§304A-2671 to 304A-2689.

"B. UNIVERSITY PARKING

[§304A-2601] 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 [304A-2275].

(c) For the purposes of this subpart, parking facilities shall be considered university projects, and the board shall possess all powers conferred by [subpart D]. [L 2006, c 75, pt of §2]

" **[§304A-2602] 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 [304A-2275]. 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. [L 2006, c 75, pt of §2]

" **[§304A-2603] Revenue bonds.** The board of regents is authorized to issue sufficient amounts of revenue bonds pursuant to [subpart D] for the purpose of providing adequate parking structures or other facilities. [L 2006, c 75, pt of §2]

"C. UNIVERSITY EQUIPMENT

[§304A-2651] 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 characteristics 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. [L 2006, c 75, pt of §2]

"[D.] UNIVERSITY PROJECTS AND PURPOSES

[§304A-2671] Definitions and interpretations. Whenever used in this subpart:

"Appropriation" means moneys appropriated or allocated by the legislature to the board, the university, any university project, any university system, any network, or any combination thereof, from any revolving or special fund that consists of rates, rentals, and charges, or user taxes, which is permitted

to be expended for the cost of construction, cost of maintenance, debt service on revenue bonds, or any combination thereof.

"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" or "construct" includes acquisition, purchase, planning, construction, reconstruction, remodeling, renovation, improvement, betterment, and extension.

"Cost of construction" includes all costs and estimated costs related to construction, including but not limited to:

- (1) All costs and estimated costs of the preparation and issuance of revenue bonds and the obtaining of a loan;
- (2) Costs of land acquisition;
- (3) All costs and estimated costs related to construction of a university project, university system, network, or any combination thereof, including engineering, architectural, supervisory, inspection, fiscal, administrative, travel, and clerical fees, costs, and expenses;
- (4) Interest estimated to accrue during the construction period and for six months thereafter on money obtained by loan or through the issuance of revenue bonds;
- (5) Moneys necessary to establish or increase reserves;
- (6) Costs of utilities, equipment, fixtures, and apparatus necessary or convenient for the use and occupancy of the university project, university system, or network or any combination thereof; and
- (7) The initial furnishings of the university project, university system, or network, or any combination thereof in the determination of the board.

"Cost of maintenance" includes all costs or estimated costs of the maintenance of a university project, university system, or network or any combination thereof; including but not limited to salaries, wages, and fees of officers, employees, and contractors of the board engaged in the maintenance of a university project, university system, or network or any combination thereof, the cost of all supplies and equipment, and all operational and administrative expenses.

"CUSIP" means the numbering system adopted by the Committee for Uniform Security Identification Procedures formed by the Securities Industry Association.

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

"Network" means two or more university projects, university systems, or university projects and university systems that, at

the election of the board, are combined into a single network. A network may include various university projects in any one or more of the areas under the jurisdiction of the board.

"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, commercial paper, 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, revenue, and moneys of whatever nature received by the university, or that it is entitled to receive, from its ownership or operation and management of the university, including any appropriation, other than general appropriations or gifts the terms of which preclude their being used for payment of the cost of construction or cost of maintenance of a university project, a university system, or a network or any combination thereof.

"University" means the University of Hawaii, every community college established and governed by the board under this chapter, and any and every other educational institution under the jurisdiction of the board.

"University project" means any undertaking or improvement that is constructed or maintained by the university in furtherance of a university purpose. A university project includes, but is not limited to, 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.

"University system" means two or more university projects from which the university generates revenue of the university, other than appropriations, operated and maintained jointly as a system. [L 2007, c 161, pt of §1]

" **§304A-2672 Powers of the board.** Notwithstanding any law to the contrary, the board may:

- (1) Designate as a university project, any undertaking, improvement, or facility on any one or more of the areas in one or more of the educational institutions under the jurisdiction of the board;
- (2) Construct and maintain university projects, including a university project included or to be in a university system; provided that all procurements for professional services furnished by licensees under

chapter 464 for construction projects shall be coordinated with the department of accounting and general services on behalf of the board; provided further that the department of accounting and general services shall not be responsible for procurements determined by both the University of Hawaii and the department of accounting and general services to be professional services furnished by licensees under chapter 464 for repair and maintenance;

- (3) Combine two or more university projects into a university system on one or more of the areas on any one or more of the educational institutions under the jurisdiction of the board, and to maintain the system;
- (4) Combine two or more university projects, university systems, or university projects and university systems into a network, on any one or more of the areas on any one or more of the educational institutions under the jurisdiction of the board, and to maintain the network;
- (5) Prescribe and collect rents, fees, and charges for the use of or services furnished by any university project and the facilities thereof, and pledge any appropriation to any university project and the facilities thereof that in aggregate, produces revenue of the university at least sufficient to comply with section 304A-2681;
- (6) With the approval of the governor, issue revenue bonds under this subpart in such principal amount as may be authorized by the legislature from time to time to finance in whole or in part the cost of construction or the cost of maintenance of any university project, including funding reserves therefor;
- (7) Pledge to the punctual payment of revenue bonds and interest thereon, all or any part of the revenue of the university, including any appropriation, in an amount sufficient to pay the revenue bonds and interest as the same become due and to create and maintain reasonable reserves therefor;
- (8) Establish a loan program or a commercial paper program upon terms and conditions that the board may determine; and
- (9) Advance moneys of the university, not otherwise required, and do any and all other lawful acts as may be necessary, convenient, or desirable, for carrying into execution and administering this subpart. [L 2007, c 161, pt of §1; am L 2013, c 87, §4]

" **[\$304A-2673] Designation and authorization of university projects, university systems, networks; authorization of revenue bonds.** The designation and authorization of construction and maintenance of a university project, university system, or network, and the authorization for issuance of revenue bonds under this subpart shall be by resolution of the board by a majority of all the members of the board then in office. Any resolution may be adopted at the same meeting at which it is introduced and shall take effect immediately upon adoption. [L 2007, c 161, pt of §1]

" **[\$304A-2674] Revenue bonds; details, sale, legal investment.** (a) Revenue bonds:

- (1) Shall be issued in the name of the board;
- (2) May bear interest at a rate payable at such time or times;
- (3) May be issued in one or more series;
- (4) May be in a denomination or denominations;
- (5) May bear a date or dates;
- (6) May mature at such time not exceeding fifty years from their respective dates;
- (7) May be payable in a medium of payment and at a place within or without the State;
- (8) May carry registration privileges;
- (9) 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 or the holder;
- (10) May contain terms, covenants, and conditions; and
- (11) May be in any form and printed in any manner, including typewritten;

as the resolution authorizing the issuance of the revenue bonds may provide.

(b) The board may acquire policies of insurance and enter into banking arrangements upon any terms and conditions that the board deems appropriate, at the time of delivery of an issue of revenue bonds or at a later date that the board deems in the best interest of the university, including but not limited to contracting for a support facility under section 304A-2675, and contracting for interest rate swaps, swapations, 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 appropriate arrangements for the sale of each issue of revenue bonds or part thereof as 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 deemed 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 interest 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 United States of America, or any board, agency, instrumentality, or corporation thereof, to the employees' retirement system of the State, to any political subdivision of the State, or to any board, agency, instrumentality, public corporation, or other governmental organization of the State or of any political subdivision of the State.

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

The sale of the revenue bonds by the board at competitive sale shall be at the price and upon terms and conditions, and the revenue bonds shall bear interest at the rate or rates or 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 such other determinations or actions, as may be provided by resolution of the board, to the chairman, the president, or another designated officer.

(e) 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 sinking, insurance, investment, retirement, compensation, pension, trust funds, and funds held on deposit, for the purchase of any revenue bonds issued under this subpart. 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. [L 2007, c 161, pt of §1]

" **[§304A-2675] Support facility for variable rate revenue bonds.** If revenue bonds issued pursuant to this subpart are issued bearing interest at a rate that varies from time to time or with a right of holders to tender the revenue bonds for purchase, or both, the board may contract for the support facility and remarketing arrangements as are required to market the revenue bonds to the greatest advantage of the board and the university upon terms and conditions that the board deems necessary and proper.

The board may enter into contracts or agreements with the entity providing a support facility; provided that any contract or agreement shall provide 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 at such time as:

- (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. [L 2007, c 161, pt of §1]

" **[§304A-2676] CUSIP identification numbers.** The board may provide that CUSIP identification numbers shall be printed on revenue bonds issued under this subpart. If numbers are printed on any such revenue bonds:

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

The board may require that all costs of obtaining and printing the CUSIP identification numbers shall be paid by the purchaser of the revenue bonds. [L 2007, c 161, pt of §1]

" **[§304A-2677] Covenants in resolution authorizing revenue bonds.** Any resolution authorizing the issuance of revenue bonds under this subpart may contain covenants as to:

- (1) The purpose 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 pledged to the payment of the revenue bonds, 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 revenue of the university to be produced by the university project, university system, or network or any combination thereof over and above the amount required to be produced by section 304A-2681;
- (4) The use and disposition of the proceeds of the sale of any university project, university system, or network or any part thereof;
- (5) The construction or maintenance of any university project, university system, or network or any combination thereof for the construction or maintenance of which revenue bonds are issued, or any university system or network in which university projects constructed or maintained are later included;
- (6) The issuance of other or additional revenue bonds and the revenue of the university from which additional revenue bonds shall be payable;
- (7) The maintenance of the university projects, university system, or network or any combination thereof, including the creation by the board of supervisory positions, which shall not be subject to chapter 76, as are necessary to facilitate the issuance of revenue bonds to ensure the adequacy of revenue of the university;
- (8) The insurance on a university project, university system, or network or any combination thereof, 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 resolution may be subsequently amended or modified by the board with or without the consent of the holders of revenue bonds or any proportion of the holders, or any trustee thereof; and
- (11) The terms and conditions upon which the holders of revenue bonds, 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, and the receiver may enter and take possession of the university project, university system, or network; maintain them; prescribe rents, fees, and charges; and collect, receive, and apply all revenue of the university thereafter arising therefrom in the same manner as the board itself may do; provided that the receiver shall have no power to mandate appropriations, or to use, or permit the use of, any university project, university system, or network or any combination thereof, other than in a manner consistent with and in furtherance of the purposes of the university.

This subpart and any resolution shall be deemed a contract with the holders of revenue bonds issued under this subpart. The duties of the board and any resolution shall be enforceable by any bondholder by mandamus or other appropriate suit, action, or proceeding in any court of competent jurisdiction. [L 2007, c 161, pt of §1]

" **[§304A-2678] Execution and validity of revenue bonds.** Revenue bonds issued under this subpart shall bear the manual signatures or facsimile of the signatures of the chairperson and secretary of the board, and shall be sealed with the seal of the board or in lieu thereof shall bear a facsimile of seal. If the board designates a registrar other than itself for the revenue bonds, the resolution authorizing the revenue bonds may provide that none of the revenue bonds shall be valid or obligatory for any purpose unless authenticated by the registrar. If the resolution provides, all signatures of the board upon the revenue bonds may be facsimiles of the signatures, and the revenue bonds shall be valid and obligatory only if authenticated by the manual signature of an authorized officer or signatory of the registrar. Revenue bonds bearing the signature of officers in office at the date of the signing thereof shall be valid 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 depend on or be affected by the validity or regularity of any proceedings relating to the construction or maintenance of the university project, university system, or network for which the revenue 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 subpart, which recital shall be conclusive evidence of their validity and of the regularity of their issuance. [L 2007, c 161, pt of §1]

" **[\$304A-2679] Pledge of revenue of the university.** The resolution authorizing the issuance of revenue bonds may pledge to the payment thereof all or any part of the revenue of the university, and the pledge shall constitute a lien on revenue of the university to the extent and in the manner provided in the resolution prior and paramount to any claim or other obligation of any nature against the revenue of the university so pledged subsequently arising or incurred. The board may provide in the resolution that all revenue bonds of the same issue 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 revenue of the university contained in any resolution adopted under this subpart shall be valid from and after the adoption of the resolution without physical delivery of the revenue of the university pledged or the necessity of any further action by the State or the board, or any officer or agent of the State or the board. [L 2007, c 161, pt of §1]

" **[\$304A-2680] 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 revenue of the university pledged to the payment thereof, and the revenue of the university shall be applied to the payment in accordance with this subpart and the resolution authorizing the issuance of the revenue bonds. The university, or any university project, university system, or network shall constitute a public undertaking, improvement, or system, and any appropriation shall constitute revenue of the university under the constitution and laws of the State. No holder of any revenue bonds issued under this subpart may compel any exercise of the taxing power of the State or the making of any appropriation to pay the revenue bonds, or interest thereon. Each revenue bond shall recite in substance that the revenue bond, including interest thereon, is payable from and secured by

the revenue of the university pledged to the payment thereof, and that the revenue bond does not constitute a general or moral obligation or indebtedness of the State within the meaning of any law. [L 2007, c 161, pt of §1]

Cross References

Debt limitations, see Const. Art. VII, §13.

Revenue bonds, see chapter 39, pt III.

" **[§304A-2681] Imposition of rates, rents, fees, and charges; pledge, allocation of appropriation.** (a) The board 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 rates, rents, fees, and charges whenever necessary, or allocate all or any portion of appropriation for each university project, so that, in aggregate, the revenue of the university with respect to all university projects, university systems, or networks shall produce revenue of the university at least sufficient:

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

(b) Nothing in this subpart shall preclude the making of appropriations to the university or board, including any appropriation, or 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 cost of construction or maintenance of any or all university projects, university systems, or networks. [L 2007, c 161, pt of §1]

" **[\$304A-2682] Revenue bond anticipation notes.** In anticipation of the issuance under this subpart of revenue bonds and of the receipt of the proceeds of sale of revenue bonds, the board may issue and sell, without further authorization or approval, bond anticipation notes for the purposes for which the revenue bonds have been authorized, the maximum principal amount of which notes shall not exceed the authorized principal amount of the revenue bonds. The notes shall be payable from and secured by the proceeds of the sale of the bonds in anticipation of which the notes are issued, or the revenues of the university from which would be payable and by which the revenue bonds would be secured, or any combination thereof; provided that to the extent the principal of the notes is paid from moneys other than the proceeds of sale of the revenue bonds, the maximum amount of revenue 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 this subpart with respect to revenue bonds insofar as applicable; provided that:

- (1) Each note, together with all renewals and extensions thereof, or refunds 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 may determine. [L 2007, c 161, pt of §1]

" **[\$304A-2683] University project, university system, networks, and revenue bonds exempt from taxation.** The revenue of the university and the property of any university project, university system, or network shall be exempt from all taxation and assessments by the State or any county or other political subdivision thereof. Revenue bonds issued under this subpart and all income therefrom shall be exempt from all taxation by the State or any county or other political subdivision thereof, except inheritance, transfer, and estate taxes. [L 2007, c 161, pt of §1]

" **[\$304A-2684] Powers 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 network or any combination thereof, or the issuance of revenue bonds. Revenue bonds may be issued pursuant to this subpart for those purposes notwithstanding that any other law may provide for the acquisition, purchase, construction, reconstruction,

improvement, betterment, or extension of a like undertaking or the establishment, maintenance, or extension of a like university project, university system, or network or any combination thereof, or the issuance of revenue bonds, without regard to the requirements, restrictions, limitations, or other provisions contained in any other law. Except as expressly provided in any other law, this subpart shall control. [L 2007, c 161, pt of §1]

" **[§304A-2685] Refunding revenue bonds; authorization and purpose.** (a) The board, without further authorization or approval of the legislature, but with the approval of the governor, may provide for the issuance of revenue bonds (herein referred to 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 revenue bonds to be refunded may be called for redemption, any revenue bonds issued under this subpart, including any revenue bonds that the holders may consent to be paid or refunded even though the revenue bonds are not matured or are not callable or redeemable, and for the purpose of funding indebtedness not evidenced by revenue bonds but that was incurred for purposes for which revenue bonds may be issued pursuant to this subpart. The rate of interest borne by the refunding bonds shall not be affected or limited by the rate of interest borne by the revenue bonds to be refunded or the indebtedness to be funded.

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 304A-2674, or the board may provide for the exchange of refunding bonds for a like principal amount of outstanding revenue bonds for the refunding of which the issuance of the 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.

(b) Refunding bonds may be issued in a principal amount sufficient to provide funds for the payment of all revenue bonds or indebtedness to be funded or refunded, and for the payment of all expenses paid or incurred in connection with the calling, redeeming, retiring, or paying of indebtedness or outstanding revenue bonds, and the issuance of refunding bonds. The expenses may include the amount necessary for the payment of interest upon the indebtedness to be funded or the revenue 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 revenue 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 any premium required to be paid to call or retire the revenue bonds. [L 2007, c 161, pt of §1]

" **[§304A-2686] Fiscal agents.** The director of finance of the State, when requested by the board, 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. Sections 36-3 and 39-12 shall apply to this subpart. The director of finance shall set up in the treasury of the State suitable accounts for:

- (1) Deposit of all revenues of university projects, university systems, or networks and for the payment of all revenue bonds and the interest thereon;
- (2) Deposit of all other payments provided or required by this subpart, or any resolution or resolutions of the board; and
- (3) Holding of all reserves created under this subpart, or pursuant to any resolution of the board. [L 2007, c 161, pt of §1]

" **[§304A-2687] Validation of proceedings.** All proceedings taken with respect to the contracting of revenue bonded indebtedness and the issuance, sale, execution, and delivery of revenue bonds by the board are deemed validated, ratified, approved, and confirmed, notwithstanding any defects or irregularities in any proceedings or in the issuance, execution, sale, or delivery. The revenue bonds so issued or to be issued are and shall be valid obligations of the board. [L 2007, c 161, pt of §1]

" **[§304A-2688] Limitation of authority.** Notwithstanding any law to the contrary, nothing in this subpart shall be construed to authorize the board to incur any indebtedness contrary to the state constitution or to incur any indebtedness that would be required to be included in the calculation of the total indebtedness of the State. [L 2007, c 161, pt of §1]

" **[\$304A-2689] Annual report.** The University of Hawaii shall submit a report to the legislature, no later than twenty days prior to the convening of each regular session, of all revenue bonds issued pursuant to this subpart. The report shall provide a summary of all revenue bonds issued pursuant to this subpart during the preceding fiscal year. [L 2007, c 161, pt of §1]

" **§§304A-2690 to 304A-2693 REPEALED.** L 2010, c 82, §8.

"PART VII. ADMINISTRATIVELY ATTACHED ENTITIES

A. RESEARCH CORPORATION OF THE UNIVERSITY OF HAWAII

[\$304A-3001] 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. [L 2006, c 75, pt of §2]

" **§304A-3002 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 eight members as follows:

- (1) Two members of the board of regents of the University of Hawaii, selected by the board of regents 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;
- (2) Three members to be appointed by the governor pursuant to section 26-34; provided that:
 - (A) One member shall be a University of Hawaii system research faculty member;
 - (B) One member shall be from the business sector; and
 - (C) One member shall be a representative of a non-University of Hawaii research organization;
- (3) One member to be appointed by the president of the senate;
- (4) One member to be appointed by the speaker of the house of representatives; and
- (5) The vice president for research of the University of Hawaii system, who shall be a nonvoting[,] ex officio member of the board of directors.

All the members appointed by the governor, president of the senate, and speaker of the house of representatives shall serve for a term of four years, except that the governor may reduce the terms of those initially appointed 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. [L 2006, c 75, pt of §2; am L 2013, c 288, §2]

" **[§304A-3003] 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. [L 2006, c 75, pt of §2]

" **[§304A-3004] 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. [L 2006, c 75, pt of §2]

" **§304A-3005 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 103D with respect to construction contracts; provided that the exception shall not apply where state funds are used and compliance with chapter 103D is required by a bill enacted by the legislature;
- (4) Chapter 76, relating to civil service; and
- (5) Section 78-1, relating to public employment. [L 2006, c 75, pt of §2; am L 2013, c 288, §3]

" **§304A-3006 Officers and employees of the research corporation.** The board of directors shall employ an executive director of the research corporation who shall serve at the pleasure of the board of directors. The executive director's salary shall not be more than two times the salary of the highest paid head of a department within the executive branch. The board of directors may also appoint 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 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. [L 2006, c 75, pt of §2; am L 2013, c 288, §4]

" **[§304A-3007] 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. [L 2006, c 75, pt of §2]

Cross References

Due date of reports, see §93-12.

" **[§304A-3008] 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. [L 2006, c 75, pt of §2]

" **[§304A-3009] 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. [L 2006, c 75, pt of §2]

" **[§304A-3010] 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 [304A-2003] 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. [L 2006, c 75, pt of §2]

" **[§304A-3011] 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. [L 2006, c 75, pt of §2]

"B. PACIFIC INTERNATIONAL CENTER FOR HIGH TECHNOLOGY RESEARCH

[§304A-3101] 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. [L 2006, c 75, pt of §2]

"C. STATE POST-SECONDARY EDUCATION COMMISSION

[\$304A-3151] 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. [L 2006, c 75, pt of §2]

Attorney General Opinions

Cited, in determining that in the absence of other statutory wording to the contrary, the holdover provision from §26-34(b) would apply to board and commission statutes that refer to §26-34 and that the provision is constitutional. Att. Gen. Op. 16-3.

" **[\$304A-3152] 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. [L 2006, c 75, pt of §2]

" **§304A-3153 REPEALED.** L 2014, c 13, §2.

Cross References

Complaints by students of post-secondary educational institutions, see §305J-17.

" **[§304A-3154] 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. [L 2006, c 75, pt of §2]

"D. WESTERN REGIONAL EDUCATION COMPACT

[§304A-3201] 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. [L 2006, c 75, pt of §2]

Note

The recodification of this Compact to this chapter is not the "appropriate legislation" or "requisite legislative action" to initiate a withdrawal by this State from the Compact. L 2006, c 75, §21.

" **[§304A-3201.5] Definitions.** As used in this subpart, unless the context clearly requires otherwise:

"Commission" means the Western Interstate Commission for Higher Education.

"Hawaii commission" means the Hawaii western interstate commission for higher education established under section 304A-3201.6.

"Hawaii commissioners" means the members of the Hawaii western interstate commission for higher education. [L 2012, c 137, pt of §1]

" **[§304A-3201.6] Hawaii western interstate commission for higher education.** (a) There is established within the University of Hawaii for administrative purposes only the Hawaii western interstate commission for higher education comprised of the state commissioners to the Western Interstate Commission for Higher Education, established under Article III of the Western Regional Education Compact.

(b) The members of the Hawaii commission shall be the commissioners appointed by the governor to the Western Interstate Commission for Higher Education pursuant to section 304A-3204. The positions of the Hawaii commissioners shall be placed within the University of Hawaii for administrative purposes. [L 2012, c 37, pt of §1]

" **[§304A-3202] Terms and provisions of compact.** The terms and provisions of the Compact referred to in section [304A-3201] 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. [L 2006, c 75, pt of §2]

Attorney General Opinions

This statute is constitutional, with regard to the use of the phrase "appointed and qualified" to describe when a successor's appointment terminates a holdover member's position [pertaining to Hawaii members of the Western Interstate Commission for Higher Education]. Att. Gen. Op. 16-3.

" **[§304A-3203] 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. [L 2006, c 75, pt of §2]

" **[§304A-3204] 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. [L 2006, c 75, pt of §2]

" **§304A-3205 Expenditures; reports.** Expenditures by the Hawaii 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 Hawaii commissioners. A report of the activities and expenses of the Hawaii 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 Hawaii commissioners to the legislature for each regular legislative session. [L 2006, c 75, pt of §2; am L 2012, c 137, §2]

" **[§304A-3206] 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. [L 2006, c 75, pt of §2]

" **[\$304A-3207] Payment of costs.** The authority conferred by section [304A-3206] 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. [L 2006, c 75, pt of §2]

" **[\$304A-3208] Obligations under compact not impaired.** Nothing contained in sections [304A-3206] and [304A-3207] 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. [L 2006, c 75, pt of §2]

" **[\$304A-3209] Professional student exchange program; repayment policy.** The Hawaii commission may establish a repayment policy for students who receive any financial support from funds appropriated by the legislature for the Hawaii professional student exchange program of the Western Interstate Commission for Higher Education. [L 2012, c 137, pt of §1]

Cross References

Professional student exchange program revolving fund, see §304A-2277.

"E. HAWAII RESEARCH CENTER FOR FUTURES STUDY

[\$304A-3251] Center established. There is hereby established a Hawaii research center for futures study. The

center is assigned to the university for administrative purposes. [L 2006, c 75, pt of §2]

- " **[\$304A-3252] 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-environmental system over the immediate, intermediate, and long-range future, including the design of systems to assist and stabilize the State's construction industry. [L 2006, c 75, pt of §2]

" **[\$304A-3253] 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. [L 2006, c 75, pt of §2]

"F. NURSING SCHOLARS PROGRAM

[\$304A-3301] 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. [L 2006, c 75, pt of §2]

" **[§304A-3302] 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 [304A-3303(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. [L 2006, c 75, pt of §2]

" **[\$304A-3303] 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 [304A-3302(d)], and the University of Hawaii shall determine that the student is making satisfactory progress toward completing a master's or doctoral degree. [L 2006, c 75, pt of §2]

" **[§304A-3304] 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. [L 2006, c 75, pt of §2]

" **[§304A-3305] 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) 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. [L 2006, c 75, pt of §2]