

JAN 24 2024

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# A BILL FOR AN ACT

RELATING TO LAW ENFORCEMENT.

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

1           SECTION 1. The legislature finds that Act 278, Session  
2 Laws of Hawaii 2022, established a new department of law  
3 enforcement to consolidate and administer certain criminal law  
4 enforcement and investigative functions of the department of  
5 transportation, department of the attorney general, office of  
6 homeland security, and the department of public safety.  
7 However, the department of land and natural resources division  
8 of conservation and resources enforcement was not included in  
9 this effort.

10           The legislature further finds that consolidation of law  
11 enforcement officers into one department streamlines crucial  
12 government processes. Centralizing law enforcement functions  
13 under one department increases public safety, improves decision  
14 making, promotes accountability, decreases costs, reduces  
15 duplicative efforts, and provides standardized training for  
16 personnel. As state law enforcement personnel and functions are  
17 spread across various departments, reorganization of certain



1 state law enforcement functions into a single entity would  
2 provide the highest level of law enforcement service for the  
3 public, state employees, and state properties.

4 Accordingly, the purpose of this Act is to:

- 5 (1) Increase the number of deputy directors appointed by  
6 the director of law enforcement; and  
7 (2) Transfer law enforcement personnel within the  
8 department of land and natural resources to the  
9 department of law enforcement.

10 SECTION 2. Section 26-14.8, Hawaii Revised Statutes, is  
11 amended by amending subsection (b) to read as follows:

12 "(b) The director of law enforcement shall appoint,  
13 without regard to chapter 76, [~~two~~] three deputy directors to  
14 serve at the director's pleasure. Unless otherwise assigned by  
15 the director, [~~one~~] two deputy [~~director~~] directors shall  
16 oversee the law enforcement programs of the department of law  
17 enforcement and one deputy director shall oversee administration  
18 of the department of law enforcement."

19 SECTION 3. Section 76-16, Hawaii Revised Statutes, is  
20 amended by amending subsection (b) to read as follows:



1           "(b) The civil service to which this chapter applies shall  
2 comprise all positions in the State now existing or hereafter  
3 established and embrace all personal services performed for the  
4 State, except the following:

5           (1) Commissioned and enlisted personnel of the Hawaii  
6 National Guard as such, and positions in the Hawaii  
7 National Guard that are required by state or federal  
8 laws or regulations or orders of the National Guard to  
9 be filled from those commissioned or enlisted  
10 personnel;

11           (2) Positions filled by persons employed by contract where  
12 the director of human resources development has  
13 certified that the service is special or unique or is  
14 essential to the public interest and that, because of  
15 circumstances surrounding its fulfillment, personnel  
16 to perform the service cannot be obtained through  
17 normal civil service recruitment procedures. Any such  
18 contract may be for any period not exceeding one year;

19           (3) Positions that must be filled without delay to comply  
20 with a court order or decree if the director  
21 determines that recruitment through normal recruitment



- 1 civil service procedures would result in delay or  
2 noncompliance, such as the Felix-Cayetano consent  
3 decree;
- 4 (4) Positions filled by the legislature or by either house  
5 or any committee thereof;
- 6 (5) Employees in the office of the governor and office of  
7 the lieutenant governor, and household employees at  
8 Washington Place;
- 9 (6) Positions filled by popular vote;
- 10 (7) Department heads, officers, and members of any board,  
11 commission, or other state agency whose appointments  
12 are made by the governor or are required by law to be  
13 confirmed by the senate;
- 14 (8) Judges, referees, receivers, masters, jurors, notaries  
15 public, land court examiners, court commissioners, and  
16 attorneys appointed by a state court for a special  
17 temporary service;
- 18 (9) One bailiff for the chief justice of the supreme court  
19 who shall have the powers and duties of a court  
20 officer and bailiff under section 606-14; one  
21 secretary or clerk for each justice of the supreme



1 court, each judge of the intermediate appellate court,  
2 and each judge of the circuit court; one secretary for  
3 the judicial council; one deputy administrative  
4 director of the courts; three law clerks for the chief  
5 justice of the supreme court, two law clerks for each  
6 associate justice of the supreme court and each judge  
7 of the intermediate appellate court, one law clerk for  
8 each judge of the circuit court, two additional law  
9 clerks for the civil administrative judge of the  
10 circuit court of the first circuit, two additional law  
11 clerks for the criminal administrative judge of the  
12 circuit court of the first circuit, one additional law  
13 clerk for the senior judge of the family court of the  
14 first circuit, two additional law clerks for the civil  
15 motions judge of the circuit court of the first  
16 circuit, two additional law clerks for the criminal  
17 motions judge of the circuit court of the first  
18 circuit, and two law clerks for the administrative  
19 judge of the district court of the first circuit; and  
20 one private secretary for the administrative director  
21 of the courts, the deputy administrative director of



1 the courts, each department head, each deputy or first  
2 assistant, and each additional deputy, or assistant  
3 deputy, or assistant defined in paragraph (16);

4 (10) First deputy and deputy attorneys general, the  
5 administrative services manager of the department of  
6 the attorney general, one secretary for the  
7 administrative services manager, an administrator and  
8 any support staff for the criminal and juvenile  
9 justice resources coordination functions, and law  
10 clerks;

11 (11) (A) Teachers, principals, vice-principals, complex  
12 area superintendents, deputy and assistant  
13 superintendents, other certificated personnel, no  
14 more than twenty noncertificated administrative,  
15 professional, and technical personnel not engaged  
16 in instructional work;

17 (B) Effective July 1, 2003, teaching assistants,  
18 educational assistants, bilingual/bicultural  
19 school-home assistants, school psychologists,  
20 psychological examiners, speech pathologists,  
21 athletic health care trainers, alternative school



1 work study assistants, alternative school  
2 educational/supportive services specialists,  
3 alternative school project coordinators, and  
4 communications aides in the department of  
5 education;

6 (C) The special assistant to the state librarian and  
7 one secretary for the special assistant to the  
8 state librarian; and

9 (D) Members of the faculty of the University of  
10 Hawaii, including research workers, extension  
11 agents, personnel engaged in instructional work,  
12 and administrative, professional, and technical  
13 personnel of the university;

14 (12) Employees engaged in special, research, or  
15 demonstration projects approved by the governor;

16 (13) (A) Positions filled by inmates, patients of state  
17 institutions, persons with severe physical or  
18 mental disabilities participating in the work  
19 experience training programs;



- 1 (B) Positions filled with students in accordance with
- 2 guidelines for established state employment
- 3 programs; and
- 4 (C) Positions that provide work experience training
- 5 or temporary public service employment that are
- 6 filled by persons entering the workforce or
- 7 persons transitioning into other careers under
- 8 programs such as the federal Workforce Investment
- 9 Act of 1998, as amended, or the Senior Community
- 10 Service Employment Program of the Employment and
- 11 Training Administration of the United States
- 12 Department of Labor, or under other similar state
- 13 programs;
- 14 (14) A custodian or guide at Iolani Palace, the Royal
- 15 Mausoleum, and Hulihee Palace;
- 16 (15) Positions filled by persons employed on a fee,
- 17 contract, or piecework basis, who may lawfully perform
- 18 their duties concurrently with their private business
- 19 or profession or other private employment and whose
- 20 duties require only a portion of their time, if it is





1 impracticable to ascertain or anticipate the portion  
2 of time to be devoted to the service of the State;  
3 (16) Positions of first deputies or first assistants of  
4 each department head appointed under or in the manner  
5 provided in section 6, article V, of the Hawaii State  
6 Constitution; three additional deputies or assistants  
7 either in charge of the highways, harbors, and  
8 airports divisions or other functions within the  
9 department of transportation as may be assigned by the  
10 director of transportation, with the approval of the  
11 governor; one additional deputy in the department of  
12 human services either in charge of welfare or other  
13 functions within the department as may be assigned by  
14 the director of human services; four additional  
15 deputies in the department of health, each in charge  
16 of one of the following: behavioral health,  
17 environmental health, hospitals, and health resources  
18 administration, including other functions within the  
19 department as may be assigned by the director of  
20 health, with the approval of the governor; [~~two~~] three  
21 additional deputies in charge of the law enforcement



1 programs, administration, or other functions within  
2 the department of law enforcement as may be assigned  
3 by the director of law enforcement, with the approval  
4 of the governor; three additional deputies each in  
5 charge of the correctional institutions,  
6 rehabilitation services and programs, and  
7 administration or other functions within the  
8 department of corrections and rehabilitation as may be  
9 assigned by the director of corrections and  
10 rehabilitation, with the approval of the governor; an  
11 administrative assistant to the state librarian; and  
12 an administrative assistant to the superintendent of  
13 education;

14 (17) Positions specifically exempted from this part by any  
15 other law; provided that:

16 (A) Any exemption created after July 1, 2014, shall  
17 expire three years after its enactment unless  
18 affirmatively extended by an act of the  
19 legislature; and



1 (B) All of the positions defined by paragraph (9)  
2 shall be included in the position classification  
3 plan;

4 (18) Positions in the state foster grandparent program and  
5 positions for temporary employment of senior citizens  
6 in occupations in which there is a severe personnel  
7 shortage or in special projects;

8 (19) Household employees at the official residence of the  
9 president of the University of Hawaii;

10 (20) Employees in the department of education engaged in  
11 the supervision of students during meal periods in the  
12 distribution, collection, and counting of meal  
13 tickets, and in the cleaning of classrooms after  
14 school hours on a less than half-time basis;

15 (21) Employees hired under the tenant hire program of the  
16 Hawaii public housing authority; provided that not  
17 more than twenty-six per cent of the authority's  
18 workforce in any housing project maintained or  
19 operated by the authority shall be hired under the  
20 tenant hire program;



- 1           (22) Positions of the federally funded expanded food and  
2           nutrition program of the University of Hawaii that  
3           require the hiring of nutrition program assistants who  
4           live in the areas they serve;
- 5           (23) Positions filled by persons with severe disabilities  
6           who are certified by the state vocational  
7           rehabilitation office that they are able to perform  
8           safely the duties of the positions;
- 9           (24) The sheriff;
- 10          (25) A gender and other fairness coordinator hired by the  
11          judiciary;
- 12          (26) Positions in the Hawaii National Guard youth and adult  
13          education programs;
- 14          (27) In the state energy office in the department of  
15          business, economic development, and tourism, all  
16          energy program managers, energy program specialists,  
17          energy program assistants, and energy analysts;
- 18          (28) Administrative appeals hearing officers in the  
19          department of human services;
- 20          (29) In the Med-QUEST division of the department of human  
21          services, the division administrator, finance officer,



1 health care services branch administrator, medical  
2 director, and clinical standards administrator;  
3 (30) In the director's office of the department of human  
4 services, the enterprise officer, information security  
5 and privacy compliance officer, security and privacy  
6 compliance engineer, security and privacy compliance  
7 analyst, information technology implementation  
8 manager, assistant information technology  
9 implementation manager, resource manager,  
10 community/project development director, policy  
11 director, special assistant to the director, and  
12 limited English proficiency project  
13 manager/coordinator;  
14 (31) The Alzheimer's disease and related dementia services  
15 coordinator in the executive office on aging;  
16 (32) In the Hawaii emergency management agency, the  
17 executive officer, public information officer, civil  
18 defense administrative officer, branch chiefs, and  
19 emergency operations center state warning point  
20 personnel; provided that for state warning point  
21 personnel, the director shall determine that



1 recruitment through normal civil service recruitment  
2 procedures would result in delay or noncompliance;

3 (33) The executive director and seven full-time  
4 administrative positions of the school facilities  
5 authority;

6 (34) Positions in the Mauna Kea stewardship and oversight  
7 authority;

8 (35) In the office of homeland security of the department  
9 of law enforcement, the statewide interoperable  
10 communications coordinator; and

11 (36) In the social services division of the department of  
12 human services, the business technology analyst.

13 The director shall determine the applicability of this  
14 section to specific positions.

15 Nothing in this section shall be deemed to affect the civil  
16 service status of any incumbent as it existed on July 1, 1955."

17 SECTION 4. Section 139-1, Hawaii Revised Statutes, is  
18 amended by amending the definition of "law enforcement officer"  
19 to read as follows:

20 ""Law enforcement officer" means:



- 1           (1) A police officer employed by a county police  
2           department;
- 3           (2) An employee of the department of law enforcement  
4           conferred with police powers by the director of law  
5           enforcement; or
- 6           (3) An employee of the [~~department of land and natural~~  
7           ~~resources,~~] department of taxation[~~7~~] or department of  
8           the attorney general who is conferred by law with  
9           general police powers."

10           SECTION 5. Section 139-2, Hawaii Revised Statutes, is  
11 amended by amending subsection (a) to read as follows:

12           "(a) There is established the law enforcement standards  
13 board within the department of the attorney general for  
14 administrative purposes only. The purpose of the board shall be  
15 to provide programs and standards for training and certification  
16 of law enforcement officers. The law enforcement standards  
17 board shall consist of the following voting members: [~~eight~~]  
18 seven ex officio individuals, two law enforcement officers, and  
19 four members of the public.

- 20           (1) The [~~eight~~] seven ex officio members of the board  
21           shall consist of the:



- 1 (A) Attorney general;
- 2 (B) Director of law enforcement;
- 3 ~~[(C) Chairperson of the board of land and natural~~
- 4 ~~resources or chairperson's designee;~~
- 5 ~~+(D)]~~ (C) Director of taxation or the director's
- 6 designee; and
- 7 ~~+(E)]~~ (D) Chiefs of police of the four counties;
- 8 (2) The two law enforcement officers shall each have at
- 9 least ten years of experience as a law enforcement
- 10 officer and shall be appointed by the governor; and
- 11 (3) The four members of the public shall consist of one
- 12 member of the public from each of the four counties
- 13 and shall be appointed by the governor. At least two
- 14 of the four members of the public holding a position
- 15 on the board at any given time shall:
  - 16 (A) Possess a master's or doctorate degree related to
  - 17 criminal justice;
  - 18 (B) Possess a law degree and have experience:
    - 19 (i) Practicing in Hawaii as a deputy attorney
    - 20 general, deputy prosecutor, deputy public





- 1 defender, or private criminal defense
- 2 attorney; or
- 3 (ii) Litigating constitutional law issues in
- 4 Hawaii;
- 5 (C) Be a recognized expert in the field of criminal
- 6 justice, policing, or security; or
- 7 (D) Have work experience in a law enforcement
- 8 capacity; provided that experience in a county
- 9 police department shall not itself be sufficient
- 10 to qualify under this paragraph."

11 SECTION 6. Section 139-7, Hawaii Revised Statutes, is  
 12 amended by amending subsection (a) to read as follows:

13 "(a) No person shall be appointed or employed as a law  
 14 enforcement officer by any county police department, the  
 15 department of law enforcement, [~~the department of land and~~  
 16 ~~natural resources,~~] the department of taxation, or the  
 17 department of the attorney general, unless the person possesses  
 18 a valid certification issued by the board pursuant to section  
 19 139-6(b)."

20 SECTION 7. Section 291-31.5, Hawaii Revised Statutes, is  
 21 amended by amending subsection (a) to read as follows:



1           "(a) No person shall knowingly operate, affix or cause to  
2 be affixed, display, or possess any lamp, reflector, or  
3 illumination device that appears to be the color blue, or colors  
4 blue and red, upon any motor vehicle, motorcycle, motor scooter,  
5 bicycle, electric foot scooter, or moped, except for:

6           (1) County law enforcement vehicles authorized and  
7                 approved by the chief of police of the county in which  
8                 the vehicle is operated; or

9           (2) Department of law enforcement vehicles with blue and  
10                 red lamps, reflectors, or illumination devices  
11                 authorized and approved by the director of law  
12                 enforcement [~~;~~ ~~or~~

13           ~~(3) Department of land and natural resources division of~~  
14           ~~conservation and resources enforcement vehicles with~~  
15           ~~blue and red lamps, reflectors, or illumination~~  
16           ~~devices authorized and approved by the chairperson of~~  
17           ~~the board of land and natural resources].~~

18           This prohibition shall not apply to factory-installed  
19 instrument illumination."



1 SECTION 8. Section 291C-1, Hawaii Revised Statutes, is  
2 amended by amending the definition of "authorized emergency  
3 vehicle" to read as follows:

4 ""Authorized emergency vehicle" includes fire department  
5 vehicles, police vehicles, ambulances, ocean safety vehicles,  
6 and law enforcement vehicles [~~, and conservation and resources~~  
7 ~~enforcement vehicles~~] authorized and approved pursuant to  
8 section 291-31.5 that are publicly owned and other publicly or  
9 privately owned vehicles designated as such by a county  
10 council."

11 SECTION 9. Section 353C-3, Hawaii Revised Statutes, is  
12 amended to read as follows:

13 "**§353C-3 Deputy directors; appointment.** The director  
14 shall appoint, without regard to chapter 76, [~~two~~] three deputy  
15 directors to serve at the director's pleasure. Unless otherwise  
16 assigned by the director, [~~one~~] two deputy [~~director~~] directors  
17 shall oversee the law enforcement programs of the department,  
18 and one deputy director shall oversee administration of the  
19 department."

20 SECTION 10. All rights, powers, functions, and duties of  
21 the division of conservation and resources enforcement of the



1 department of land and natural resources are transferred to the  
2 department of law enforcement.

3 All employees who occupy civil service positions and whose  
4 functions are transferred to the department of law enforcement  
5 by this Act shall retain their civil service status, whether  
6 permanent or temporary. Employees shall be transferred without  
7 loss of salary, seniority (except as prescribed by applicable  
8 collective bargaining agreements), retention points, prior  
9 service credit, any vacation and sick leave credits previously  
10 earned, and other rights, benefits, and privileges, in  
11 accordance with state personnel laws and this Act; provided that  
12 the employees possess the minimum qualifications and public  
13 employment requirements for the class or position to which  
14 transferred or appointed, as applicable; provided further that  
15 subsequent changes in status may be made pursuant to applicable  
16 civil service and compensation laws.

17 Any employee who, prior to this Act, is exempt from civil  
18 service and is transferred as a consequence of this Act may  
19 retain the employee's exempt status, but shall not be appointed  
20 to a civil service position as a consequence of this Act. An  
21 exempt employee who is transferred by this Act shall not suffer



1 any loss of prior service credit, vacation or sick leave credits  
2 previously earned, or other employee benefits or privileges as a  
3 consequence of this Act; provided that the employees possess  
4 legal and public employment requirements for the position to  
5 which transferred or appointed, as applicable; provided further  
6 that subsequent changes in status may be made pursuant to  
7 applicable employment and compensation laws. The director of  
8 law enforcement may prescribe the duties and qualifications of  
9 these employees and fix their salaries without regard to  
10 chapter 76, Hawaii Revised Statutes.

11 SECTION 11. All appropriations, records, equipment,  
12 machines, files, supplies, contracts, books, papers, documents,  
13 maps, and other personal property heretofore made, used,  
14 acquired, or held by the division of conservation and resources  
15 enforcement of the department of land and natural resources  
16 relating to the functions transferred to the department of law  
17 enforcement shall be transferred with the functions to which  
18 they relate.

19 SECTION 12. The salary of all law enforcement officers of  
20 the department of law enforcement shall be adjusted to ensure



1 that all law enforcement employees of the same rank will have  
2 salaries based on the same salary range.

3 SECTION 13. All leases, contracts, loans, agreements,  
4 permits, or other documents executed or entered into by or on  
5 behalf of the department of land and natural resources pursuant  
6 to the provisions of the Hawaii Revised Statutes that are  
7 reenacted or made applicable to the department of law  
8 enforcement by this Act shall remain in full force and effect.  
9 Upon the effective date of this Act, every reference to the  
10 department of land and natural resources in those leases,  
11 contracts, loans, agreements, permits, or other documents shall  
12 be construed as a reference to the department of law enforcement  
13 or the director of law enforcement, as appropriate.

14 SECTION 14. All rules, policies, procedures, guidelines,  
15 and other material adopted or developed by the department of  
16 land and natural resources to implement provisions of the Hawaii  
17 Revised Statutes that are made applicable to the department of  
18 law enforcement by this Act, shall remain in full force and  
19 effect until amended or repealed by the department of law  
20 enforcement pursuant to chapter 91, Hawaii Revised Statutes.



1           In the interim, every reference to the department of land  
2 and natural resources in those rules, policies, procedures,  
3 guidelines, and other material is amended to refer to the  
4 department of law enforcement, as appropriate.

5           SECTION 15. No offense committed and no penalty or  
6 forfeiture incurred under the law shall be affected by this Act;  
7 provided that whenever any punishment, penalty, or forfeiture is  
8 mitigated by any provision of this Act, the provision may be  
9 extended and applied to any judgment pronounced after the  
10 passage of this Act. No suit or prosecution pending at the time  
11 this Act takes effect shall be affected by this Act. The right  
12 of any administrative officer whose function is transferred by  
13 this Act to the department of law enforcement to institute  
14 proceedings for prosecution for an offense or an action to  
15 recover a penalty or forfeiture shall be vested in the director  
16 of law enforcement or the director's designee as may be  
17 appropriate.

18           SECTION 16. The right of appeal from administrative  
19 actions or determinations as provided by law shall not be  
20 impaired by this Act. Except as otherwise provided by this Act,  
21 whenever a right of appeal from administrative actions or



1 determinations is provided by law to or from any officer, board,  
2 department, bureau, commission, administrative agency, or  
3 instrumentality of the State that, or any of the programs of  
4 which, is transferred by this Act to the department of law  
5 enforcement, the right of appeal shall lie to or from the  
6 department of law enforcement when the transfer is made. The  
7 right of appeal shall exist to the same extent and in accordance  
8 with the applicable procedures that are in effect immediately  
9 before the effective date of the applicable part.

10       If the provisions of the preceding paragraph relating to  
11 appeals cannot be effected by reason of abolishment, splitting,  
12 or shifting of functions or otherwise, the right of appeal shall  
13 lie to the circuit court of the State pursuant to the Hawaii  
14 rules of civil procedure.

15       SECTION 17. It is the intent of this Act not to jeopardize  
16 the receipt of any federal aid nor to impair the obligation of  
17 the State or any agency thereof to the holders of any bond  
18 issued by the State or by any agency, and to the extent, and  
19 only to the extent, necessary to effectuate this intent, the  
20 governor may modify the strict provisions of this Act, but shall  
21 promptly report any modifications with the reasons therefor to





1 the legislature at its next session thereafter for review by the  
2 legislature.

3 SECTION 18. The revisor of statutes may incorporate into  
4 the Hawaii Revised Statutes, any of the provisions contained in  
5 this Act. The revisor of statutes shall substitute the  
6 appropriate department of law enforcement reference in all  
7 existing statutes where a department, board, commission, agency,  
8 program, or organizational segment is transferred to the  
9 department of law enforcement if such existing statutory  
10 language has not been amended by this Act.

11 SECTION 19. All laws and parts of laws heretofore enacted  
12 that are in conflict with the provisions of this Act are hereby  
13 amended to conform herewith. All Acts passed during the regular  
14 session of 2024, whether enacted before or after the passage of  
15 this Act, shall be amended to conform to this Act, unless the  
16 Acts specifically provide that the Act relating to a "department  
17 of law enforcement" are being amended. Amendments made to  
18 sections of the Hawaii Revised Statutes that are amended by this  
19 Act as of a future effective date shall include amendments made  
20 after the approval of this Act and before the effective date of  
21 the amendments made by this Act, to the extent that the



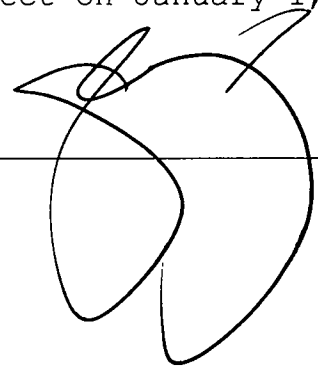
1 intervening amendments may be harmonized with the amendments  
2 made by this Act.

3 SECTION 20. Statutory material to be repealed is bracketed  
4 and stricken. New statutory material is underscored.

5 SECTION 21. This Act shall take effect on January 1, 2025.

6

INTRODUCED BY: \_\_\_\_\_

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# S.B. NO. 3355

**Report Title:**

DLE; DLNR; DOCARE; Employees; Transfer

**Description:**

Transfers the functions of the Department of Land and Natural Resources Division of Conservation and Resources Enforcement to the Department of Law Enforcement. Increases the number of deputy directors appointed by the Director of Law Enforcement. Transfers personnel within the Department of Land and Natural Resources Division of Conservation and Resources Enforcement to the Department of Law Enforcement. Takes effect 1/1/2025.

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

