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# A BILL FOR AN ACT

RELATING TO TRANSPORTATION ENVIRONMENTAL REVIEW.

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

1 SECTION 1. The legislature finds that enabling the Hawaii  
2 department of transportation to assume certain federal  
3 environmental review responsibilities under the National  
4 Environmental Policy Act of 1969 for highway projects, as well  
5 as railroad, public transportation, or multimodal projects  
6 within the State, will streamline project delivery while  
7 maintaining environmental protections.

8 The purpose of this Act is to authorize the department to  
9 participate in the National Environmental Policy Act Assignment  
10 Program under title 23 United States Code sections 326 and 327,  
11 similar to the Texas Department of Transportation authorizing  
12 statute, and provide a limited waiver of sovereign immunity to  
13 comply with federal requirements for participation in the  
14 program.

15 SECTION 2. Section 26-19, Hawaii Revised Statutes, is  
16 amended to read as follows:



1       **"§26-19 Department of transportation.** (a) The department  
2       of transportation shall be headed by a single executive to be  
3       known as the director of transportation. The department shall  
4       establish, maintain, and operate transportation facilities of  
5       the State, including highways, airports, harbors, and any other  
6       transportation facilities and activities as may be authorized by  
7       law.

8               (b) The department shall plan, develop, promote, and  
9       coordinate various transportation systems management programs  
10       that shall include but not be limited to alternate work and  
11       school hours programs, bicycling programs, and ridesharing  
12       programs.

13               (c) The department shall develop and promote ridesharing  
14       programs that shall include but not be limited to carpool and  
15       vanpool programs, and may assist organizations interested in  
16       promoting similar programs, arrange for contracts with private  
17       organizations to manage and operate these programs, and assist  
18       in the formulation of ridesharing arrangements. Ridesharing  
19       programs include informal arrangements in which two or more  
20       persons ride together in a motor vehicle.



5 (e) On July 1, 1961, the Hawaii aeronautics commission,  
6 the board of harbor commissioners, and the highway commission  
7 shall be abolished and their remaining functions, duties, and  
8 powers shall be transferred to the department of transportation.

15 (A) Climate mitigation and adaptation;

16 (B) Noise and visual buffer zones and barriers;

17 (C) Transportation projects pursuant to section 264-

18 142;

19 (D) This section; or

20 (E) Title 15;





1 department or agency having control and management of the  
2 required lands shall, upon a request by the department of  
3 transportation and with the approval of the governor, transfer  
4 title to or lease those lands to the department of  
5 transportation under terms and conditions as may be agreed to by  
6 the parties.

7 (g) The department may assume responsibilities of the  
8 United States Department of Transportation with respect to  
9 duties under the National Environmental Policy Act of 1969 (42  
10 U.S.C. §4321 et seq.) and with respect to duties under other  
11 federal environmental laws as they apply to designated  
12 transportation projects. The department may:

13 (1) Assume responsibilities under title 23 United States  
14 Code sections 326 and 327;  
15 (2) Enter into one or more agreements, including memoranda  
16 of understanding, with the United States Secretary of  
17 Transportation related to:  
18 (A) Designating categorical exclusions from federally  
19 required environmental assessments or impact  
20 statements for transportation projects as



1                   provided by title 23 United States Code section  
2                   326; or

3                   (B)    The federal surface transportation project  
4                   delivery program for the delivery of  
5                   transportation projects, including highway,  
6                   railroad, public transportation, and multimodal  
7                   projects as provided by title 23 United States  
8                   Code section 327; and

9                   (3)    Adopt rules pursuant to chapter 91 to implement this  
10                  subsection and adopt relevant federal environmental  
11                  standards as the standards for the State for a program  
12                  described in this subsection.

13                  (h)    Except as provided by this subsection, sovereign  
14                  immunity to suit in federal court and from liability shall be  
15                  waived and abolished with regard to the compliance, discharge,  
16                  or enforcement of a responsibility assumed by the department  
17                  under subsection (g). The waiver under this subsection shall  
18                  not create liability for the department that exceeds the  
19                  liability created under title 23 United States Code section 326  
20                  or 327 and shall only be valid if:



1       (1) The department executes a memorandum of understanding  
2               with the United States Department of Transportation  
3               accepting the jurisdiction of the federal courts as  
4               required by title 23 United States Code sections  
5               326(c) and 327(c);  
6       (2) The act or omission that is the subject of the lawsuit  
7               arises out of compliance, discharge, or enforcement of  
8               responsibilities assumed by the department pursuant to  
9               title 23 United States Code sections 326 and 327; and  
10      (3) The memorandum of understanding is in effect when the  
11               act or omission that is the subject of the federal  
12               lawsuit occurred."

13       SECTION 3. New statutory material is underscored.

14       SECTION 4. This Act shall take effect on July 1, 3000.



**Report Title:**

DOT; National Environmental Policy Act; NEPA Assignment

**Description:**

Authorizes the Department of Transportation to assume responsibilities under the National Environmental Policy Act of 1969 for highway projects, as well as railroad, public transportation, or multimodal projects within the State, allowing streamlined environmental reviews. Provides a limited waiver of sovereign immunity to comply with federal requirements. Effective 7/1/3000. (HD1)

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

