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5 amended to read as follows:

6 "§89-15 Financial reports to employees. Every employee  
 7 organization shall keep an adequate record of its financial  
 8 transactions [and]. It shall make available [annually,] to [the]  
 9 all employees who [are members of the organization, within sixty  
 10 days after the end of its fiscal year, a detailed written] pay  
 11 the employee organization dues or its equivalent an annual  
 12 financial report [thereof] in the form of a balance sheet and an  
 13 operating statement, certified as to accuracy by a certified  
 14 public accountant[.], within one hundred twenty days after the  
 15 end of its fiscal year. In the event of failure [of compliance]  
 16 to comply with this section, [any] an employee [within the  
 17 organization] may petition the board for an order compelling  
 18 [such] compliance. [An] The order [of the board on such  
 19 petition] shall be enforceable in the same manner as other orders  
 20 of the board under this chapter."

21 SECTION 103. Section 89-18, Hawaii Revised Statutes, is

22 amended to read as follows:

23 "§89-18 Penalty. Any person who wilfully assaults,

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1 resists, prevents, impedes, or interferes with [a mediator,

2 member of the fact-finding board, or arbitrator, or] any member  
3 of the board or any of [the] its agents or employees [of the  
4 board] in the performance of duties pursuant to this chapter,  
5 shall be fined not more than \$500 or imprisoned not more than one  
6 year, or both. The term "agent" includes a neutral third party  
7 who assists in a resolution of an impasse under section 89-11."

8 SECTION 104. Section 89A-1, Hawaii Revised Statutes, is  
9 amended to read as follows:

10 "§89A-1 Office of collective bargaining [in the state  
11 government established.] and managed competition. (a) There  
12 shall be established an office of collective bargaining and  
13 managed competition in the office of the governor to assist the  
14 governor in [negotiating with and entering into written  
15 agreements between the public employers] implementation and  
16 review of the managed process of public-private competition for  
17 particular government services through the managed competition  
18 process and negotiations between the State and the exclusive  
19 representatives on matters of wages, hours, and other negotiable  
20 terms and conditions of employment.

21 (b) The position of chief negotiator for the State is  
22 hereby established to head the office. The chief negotiator  
23 shall be experienced in labor relations. [The governor shall

1 appoint and remove the chief negotiator and the deputy  
2 negotiators, who shall not be subject to chapters 76, 77, and 89.  
3 Effective January 1, 1989, and January 1, 1990, the salary of the  
4 chief negotiator shall be set by the governor within the range  
5 from \$69,748 to \$74,608 and \$72,886 to \$77,966 a year,  
6 respectively. The chief negotiator and deputy negotiators shall  
7 be included in any benefit program generally applicable to the  
8 officers and employees of the State. All other employees shall  
9 be appointed in accordance with chapters 76 and 77. The chief  
10 negotiator shall serve as one of the governor's designated  
11 representatives as set forth in section 89-6(b).] The governor  
12 shall appoint the chief negotiator and may also appoint deputy  
13 negotiators to assist the chief negotiator. The governor, at  
14 pleasure, may remove the chief negotiator and any deputy  
15 negotiator. All other employees shall be appointed by the chief  
16 negotiator. All employees in the office of collective bargaining  
17 shall be included in any benefit programs generally applicable to  
18 employees of the State.

19 (c) Subject to the approval of the governor, the office of  
20 collective bargaining and managed competition shall:

21 (1) Assist the governor in formulating the State's  
22 philosophy for public collective bargaining and for the  
23 managed process for public-private competition for

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1 government services, including which particular service  
2 can be provided more efficiently, effectively, and  
3 economically considering all relevant costs; and

4 (2) Coordinate the managed competition process to ensure  
5 the negotiations of subject matters that are negotiable  
6 under the collective bargaining laws in the public  
7 sectors;

8 (d) No employee of the office of collective bargaining  
9 shall be included in the civil service, any civil service  
10 classification system, or any appropriate bargaining unit;  
11 provided that any civil service position on the effective date of  
12 this Act shall not be exempted from civil service until the  
13 incumbent in that position on the effective date of this Act  
14 vacates that position."

15 SECTION 105. Chapter 89C, Hawaii Revised Statutes, is  
16 amended by adding a new section to be appropriately designated  
17 and to read as follows:

18 "§89C- Definitions. As used in this chapter:

19 "Adjustment" means a change in wages, hours, benefits, or  
20 other term and condition of employment.

21 "Appropriate authority" means the governor, the respective  
22 mayors, the chief justice of the supreme court, the board of  
23 education, the board of regents, the Hawaii health system

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1 corporation board, the auditor, the ombudsman, and the director  
2 of the legislative reference bureau. These individuals or boards  
3 may make adjustments for their respective excluded employees.

4 "Excluded employee" or "employee" means any individual who  
5 is employed by an appropriate authority and is not included in an  
6 appropriate bargaining unit under section 89-6 and, therefore, is  
7 not entitled to collective bargaining coverage under chapter 89."

8 SECTION 106. Section 89C-1, Hawaii Revised Statutes, is  
9 amended to read as follows:

10 "§89C-1 Purpose. [The legislature finds that existing  
11 statutes do not permit the chief executives of the State and  
12 counties, the board of education, the board of regents, the  
13 auditor, the director of the legislative reference bureau, the  
14 ombudsman, and the chief justice of the supreme court sufficient  
15 flexibility to make appropriate and timely adjustments in the  
16 compensation, hours, terms, and conditions of employment, amounts  
17 of contributions by the State and respective counties to the  
18 Hawaii public employees health fund, and other benefits for  
19 public officers and employees who are excluded from collective  
20 bargaining coverage under chapter 89. To this end, the  
21 legislature grants to the respective chief executives, the board  
22 of education, the board of regents, the auditor, the director of

23 the legislative reference bureau, the ombudsman, and the chief

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1 justice, the authority to make such adjustments for officers and  
2 employees excluded from collective bargaining in conformance with  
3 this chapter.

4       Nothing in this chapter shall be construed to interfere with  
5 or diminish any authority already provided by statutes to the  
6 chief executives, the board of education, the board of regents,  
7 the auditor, the director of the legislative reference bureau,  
8 the ombudsman, or the chief justice.] The legislature finds that  
9 the appropriate authorities do not have sufficient flexibility to  
10 adjust the wages, hours, benefits, and other terms and conditions  
11 of employment for their respective excluded public officers and  
12 employees. The organizational status and employment conditions  
13 of these individuals in the excluded group are diverse and  
14 include: cabinet members, board and commission members,  
15 managerial employees, and non-managerial employees; appointees,  
16 civil service employees, and employees exempt from civil service;  
17 permanent and temporary employees; and full-time, part-time,  
18 seasonal, casual, and intermittent employees. Sufficient  
19 flexibility must be provided so that timely and relevant  
20 adjustments can be made. To this end, the legislature grants  
21 appropriate authorities the necessary flexibility to make

22 adjustments as provided in this chapter; provided that nothing in  
23 this chapter shall be construed to interfere with or diminish

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1 authority already provided to them."

2 SECTION 107. Section 89C-2, Hawaii Revised Statutes, is

3 amended to read as follows:

4 "§89C-2 Adjustments authorized; limitations, restrictions.

5 [Any provision of law to the contrary notwithstanding, the  
6 compensation, hours, terms, and conditions of employment, amounts  
7 of contributions by the State and respective counties to the  
8 Hawaii public employees health fund, and other benefits for  
9 public officers and employees who are excluded from collective  
10 bargaining shall be adjusted by the chief executives of the State  
11 or counties, the board of education, the board of regents, the  
12 auditor, the director of the legislative reference bureau, the  
13 ombudsman, or the chief justice, as applicable. The chief  
14 executives, the board of education, the board of regents, the  
15 auditor, the director of the legislative reference bureau, the  
16 ombudsman, and the chief justice, or their designated  
17 representatives, shall determine the adjustments to be made and  
18 which excluded officers or employees are to be granted  
19 adjustments under this chapter, in accordance with the following

**20 guidelines and limitations:**

21       (1) For excluded officers and employees under the same  
22            compensation plans as officers and employees within  
23            collective bargaining units, such adjustments shall be

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1           not less than those provided under collective  
2            bargaining agreements for officers and employees hired  
3            on a comparable basis.

4       (2) For excluded officers and employees in the excluded  
5            managerial compensation plan, such adjustments shall be  
6            not less than those provided under collective  
7            bargaining to officers and employees in the  
8            professional and scientific employees bargaining unit.  
9            Alternate adjustments may be granted to officers and  
10           employees whose work is related to that of officers and  
11           employees in the other optional bargaining units in  
12           order to maintain appropriate pay relationships with  
13           such officers and employees.

14       (3) No adjustment in compensation, hours, terms, and  
15            conditions of employment, amounts of contributions by  
16            the State and respective counties to the Hawaii public  
17            employees health fund, or other benefits shall be  
18            established which is in conflict with the system of



19 personnel administration based on merit principles and  
 20 scientific methods governing the classification of  
 21 positions and the employment conduct, movement, and  
 22 separation of public officers and employees.

23 (4) The compensation of officers or employees whose

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1 salaries presently are limited or fixed by legislative  
 2 enactment shall not be adjusted under this chapter, but  
 3 shall continue to be adjusted by the appointing  
 4 authority within limits established by law or by  
 5 legislative enactment.

6 (5) The compensation of officers or employees, who are not  
 7 covered under the same compensation plans as officers  
 8 and employees within collective bargaining units and  
 9 whose salaries presently are authorized to be fixed by  
 10 the appointing authority, need not be adjusted under  
 11 this chapter. The appointing authority may continue to  
 12 make specific adjustments in the salaries of individual  
 13 officers or employees from available funds  
 14 appropriated.

15 (6) Adjustments to the amounts of contributions by the  
 16 State and respective counties to the Hawaii public

17 employees health fund on behalf of officers or  
 18 employees who are not covered by adjustments made under  
 19 this chapter shall be made by legislative enactment.]

20 Each appropriate authority may make adjustments for their  
 21 respective excluded employees subject to the following guidelines  
 22 and limitations:

23 (1) The compensation of excluded employees, whose pay is

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1 presently limited or fixed by legislative action, shall  
 2 not be adjusted under this chapter and shall continue  
 3 to be limited or fixed by the respective legislative  
 4 body;

5 (2) The compensation of excluded employees exempt from  
 6 civil service coverage, whose pay is set at the  
 7 discretion of the appointing authority, shall continue  
 8 to be adjusted at the discretion of the appointing  
 9 authority from funds allowed for this purpose;

10 (3) Any adjustment made for excluded civil service  
 11 employees shall be consistent with the merit principle  
 12 and shall not diminish any rights provided under  
 13 chapter 76;

14 (4) For excluded employees under the same classification  
 15 systems as employees within collective bargaining

16 units, adjustments shall be not less than those  
 17 provided under collective bargaining agreements for  
 18 employees hired on a comparable basis;

19 (5) For excluded employees other than those under paragraph  
 20 (4), adjustments shall, to the extent practicable,  
 21 uniformly apply to every excluded employee within a  
 22 homogeneous grouping, such as, cabinet members or  
 23 managerial employees, to ensure fairness. This does

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1 not preclude variable adjustments based on performance  
 2 or other job criteria and specific adjustments  
 3 warranted based on the nature of work performed or  
 4 working conditions; and

5 (6) No adjustment shall be made in benefits provided under  
 6 chapter 88 unless specifically authorized by that  
 7 chapter, or with respect to any other matter that the  
 8 legislature may specifically prohibit or limit by law."

9 SECTION 108. Section 89C-3, Hawaii Revised Statutes, is  
 10 amended to read as follows:

11 "§89C-3 Adjustments for [officers and] excluded civil  
 12 service employees [covered by chapter 77]. [The state director  
 13 of human resources development and the directors of personnel

14 services of the counties who shall serve as representatives of  
15 their respective chief executives, and the administrative  
16 director of the courts who shall serve as the representative of  
17 the chief justice, shall decide by majority vote on the  
18 adjustments to be made under this chapter for officers and  
19 employees covered under chapter 77. Any adjustments and their  
20 effective dates shall be uniform among the jurisdictions.] (a)  
21 Each jurisdiction shall determine the adjustments that are  
22 relevant for its respective excluded civil service employees  
23 based on recommendations from its respective personnel director.

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1 (b) In formulating recommendations to the appropriate  
2 authority, the respective director shall:

3 (1) Establish procedures that allow excluded civil service  
4 employees and employee organizations representing them  
5 the opportunity to provide input on the kinds of  
6 adjustments that are relevant and important to them for  
7 the director's consideration;

8 (2) Ensure that adjustments for excluded civil service  
9 employees result in compensation and benefit packages  
10 that are appropriate for what they do and the  
11 contribution they make in consideration of the  
12 compensation and benefit packages provided under

13 collective bargaining agreements for counterparts and  
 14 subordinates within the jurisdiction; and

15 (3) Confer with other directors on proposed adjustments to  
 16 ensure adjustments are consistent with chapter 76."

17 SECTION 109. Section 89C-4, Hawaii Revised Statutes, is  
 18 amended to read as follows:

19 "§89C-4 Adjustments for [other officers and employees.(a)  
 20 The respective representatives of the State, counties, and the  
 21 judiciary shall submit to their respective chief executives and  
 22 to the chief justice, recommendations on the adjustments to be  
 23 made under this chapter for other officers and employees within

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1 their respective personnel systems. The conference of personnel  
 2 directors shall confer prior to the submittal of any recommended  
 3 adjustment by each director to the director's chief executive or  
 4 by the administrative director of the courts to the chief  
 5 justice. Any adjustments and their effective dates shall be  
 6 uniform, if practicable, among the jurisdictions.

7 (b) The superintendent of education and the president of  
 8 the University of Hawaii shall submit to the board of education  
 9 and the board of regents, respectively, recommendations on the  
 10 adjustments to be made under this chapter for officers and

11 employees within their respective personnel systems. The  
 12 superintendent and the president shall confer with the state  
 13 director of human resources development prior to the submittal of  
 14 any recommended adjustment. Any adjustments adopted by the board  
 15 of education or the board of regents which presently require the  
 16 approval of the governor shall remain subject to the approval of  
 17 the governor.

18 (c) The auditor, the director of the legislative reference  
 19 bureau, and the ombudsman shall decide by majority vote on the  
 20 adjustments to be made under this chapter for officers and  
 21 employees within their respective offices, including employees of  
 22 the state ethics commission which is administratively within the  
 23 office of the auditor. The auditor, the director of the

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1 legislative reference bureau, and the ombudsman shall confer with  
 2 the state director of human resources development prior to voting  
 3 on any adjustment. Any adjustments and their effective dates  
 4 shall be uniform for employees under sections 23-8, 23G-2, 84-35,  
 5 and 96-3.] excluded employees exempt from civil service. Each  
 6 appropriate authority shall determine the adjustments that are  
 7 relevant for their respective excluded employees who are exempt  
 8 from civil service in consideration of the compensation and  
 9 benefit packages provided for other employees in comparable

10 agencies."

11 SECTION 110. Section 89C-5, Hawaii Revised Statutes, is  
12 amended to read as follows:

13 "§89C-5 [Implementation; effective date, appropriations,  
14 approval.(a) Adjustments made under this chapter which do not  
15 exceed those for officers and employees in collective bargaining  
16 units shall take effect on the same dates as appropriate  
17 collective bargaining agreements. Any such adjustments which  
18 constitute cost items shall be subject to appropriations by the  
19 appropriate legislative bodies. Such cost items shall be  
20 submitted separately from any cost items under collective  
21 bargaining to the appropriate legislative bodies, except that if  
22 appropriation by the state legislature is required, and it is not  
23 in session at the time, such cost items shall be submitted for

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1 inclusion in the governor's next operating budget. The state  
2 legislature or the legislative bodies of the counties acting in  
3 concert, as the case may be, may approve or reject the cost items  
4 submitted to them, as a whole. If the state legislature or the  
5 legislative body of any county rejects any of the cost items  
6 submitted to them, all cost items shall be returned for revision.

7 (b) Any other adjustments made under this chapter which

8 constitute cost items or which were specifically provided for by  
9 legislative enactment shall be subject to approval or rejection  
10 as a whole by the appropriate legislative body. Such adjustments  
11 for officers and employees covered under chapter 77 shall be  
12 subject to the approval or rejection as a whole by all  
13 appropriate legislative bodies acting in concert. If the state  
14 legislature or the legislative body of any county rejects any of  
15 the adjustments submitted to it, all adjustments for officers and  
16 employees covered under chapter 77 or all adjustments for other  
17 officers and employees, as the case may be, shall be returned for  
18 revision.

19 (c) The chief executives of the State or counties, the  
20 board of education, the board of regents, the auditor, the  
21 director of the legislative reference bureau, the ombudsman, or  
22 the chief justice, shall not make any adjustments nor use funds  
23 for purposes of this chapter without the prior approval of the

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1 appropriate legislative bodies as required in this section.]

2 Implementation; approval and appropriations. (a) Adjustments  
3 that do not require appropriations by the respective legislative  
4 bodies may be implemented without legislative action.

5 (b) All other adjustments requiring appropriations shall be  
6 submitted to the respective legislative body for appropriations,



7 at such time and in such manner as the legislative body may  
 8 require. The legislative body shall appropriate funds of the  
 9 amount requested or funds of a different amount after discussing  
 10 the reasons with the appropriate authority.

11 (c) No adjustment shall be made and no funds shall be used  
 12 for purposes of this chapter unless the legislative body has  
 13 appropriated the funds necessary to implement the adjustment."

14 SECTION 111. Section 89C-6, Hawaii Revised Statutes, is  
 15 amended to read as follows:

16 "§89C-6 Chapter takes precedence, when. Adjustments made  
 17 in accordance with this chapter shall take precedence over all  
 18 contrary local ordinances, executive orders, legislation, or  
 19 rules adopted by the State or a county, or any department,  
 20 agency, board, or commission thereof, including the personnel  
 21 departments [of human resources development or of personnel  
 22 services or the civil service commissions.] or the merit appeals  
 23 boards."

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1 PART V. SEPARATION INCENTIVES

2 SECTION 112. The purpose of this part is to provide the  
 3 tools necessary to facilitate the restructuring of government.  
 4 Specifically, this part authorizes the state executive branch to

5 offer a voluntary severance or a special retirement incentive  
 6 benefit to state employees who elect to voluntarily separate from  
 7 service when their positions are identified for abolishment or  
 8 when they are directly affected by a reduction-in-force or a  
 9 workforce restructuring plan.

10 This part also extends to other jurisdictions the option to  
 11 provide a special retirement incentive to their respective  
 12 employees under a reduction-in-force or a workforce restructuring  
 13 plan.

14 SECTION 113. As used herein:

15 "Directly affected" means an employee who receives official  
 16 reduction-in-force notification of displacement from the  
 17 employee's position as a result of a senior employee exercising  
 18 reduction-in-force rights.

19 "Employee" means an individual in a position covered by  
 20 chapter 88, Hawaii Revised Statutes, that has been identified for  
 21 abolishment or directly affected as a result of a reduction-in-  
 22 force or workforce restructuring plan, but excludes any elected  
 23 or appointed official and school level personnel with the

1 department of education engaged in administrative or  
 2 instructional work, such as, principals and teachers.

3 "Jurisdiction" means the city and county of Honolulu, the

4 county of Hawaii, the county of Maui, the county of Kauai, the  
5 judiciary, the Hawaii health systems corporation, the office of  
6 Hawaiian affairs, and the legislative branches of the State and  
7 county governments.

8 "Reduction-in-force" includes layoff under chapter 76,  
9 Hawaii Revised Statutes.

10 "State executive branch" includes the department of  
11 education and the University of Hawaii, but excludes the Hawaii  
12 health systems corporation which is considered a separate  
13 jurisdiction under this part.

14 SECTION 114. Voluntary severance benefits. (a) Any civil  
15 service employee entitled to reduction-in-force rights under  
16 chapter 76, Hawaii Revised Statutes, and who receives official  
17 notification that the employee's position is being abolished or  
18 who is directly affected by a reduction-in-force or workforce  
19 restructuring plan proposed by a department, may elect to receive  
20 a voluntary severance benefit provided under this section in lieu  
21 of exercising any reduction-in-force rights under chapter 89 or  
22 89C, Hawaii Revised Statutes, as applicable, and in lieu of  
23 receiving any special retirement incentive benefit under section

2 (b) A one-time lump sum cash bonus voluntary severance  
3 benefit shall be calculated at five per cent of the employee's  
4 base salary for every year of service worked, up to ten years,  
5 and shall not exceed fifty per cent of the employee's annual base  
6 salary.

7 For the purposes of this section, "base salary" means an  
8 employee's annual salary for the position from which the employee  
9 is to be separated, excluding all other forms of compensation  
10 paid or accrued, whether a bonus, allowance, differential, or  
11 value of leave or compensatory time off credits. Compensation  
12 excluded from base salary includes but is not limited to:  
13 shortage category differential, night shift differential,  
14 overtime, compensatory time off credits, vacation or sick leave  
15 credits, and workers' compensation benefits.

16 (c) A voluntary severance benefit shall be in addition to  
17 any payment owing to the employee upon separation from service,  
18 including accumulated unused vacation allowances or compensatory  
19 time credits.

20 (d) All voluntary severance benefits paid under this  
21 section shall be subject to applicable state income tax laws and  
22 rules.

23 (e) A voluntary severance benefit provided under this

1 section shall not be considered as a part of a discharged  
2 employee's salary, service credit, or a cost item under section  
3 89-2, Hawaii Revised Statutes, when calculating retirement  
4 benefits or sick and vacation leave.

5 SECTION 115. Special retirement incentive benefit. (a)

6 Any employee who receives official notification that the  
7 employee's position is being abolished or who is directly  
8 affected by the result of a reduction-in-force or workforce  
9 restructuring plan proposed by a department may elect, if the  
10 employee is a vested member of the employees' retirement system  
11 and meets any of the criteria specified in subsection (c), the  
12 special retirement benefit provided by this section in lieu of  
13 exercising any reduction-in-force rights under chapter 89 or 89C,  
14 Hawaii Revised Statutes, as applicable, and in lieu of receiving  
15 any voluntary severance benefits under section 114. To receive  
16 the special retirement incentive benefit offered under this  
17 section, the employee shall comply with the application and time  
18 frame requirements specified in subsection (b).

19 (b) Any employee who elects to retire and receive the  
20 special retirement incentive benefit under this section shall  
21 notify the employee's employing department and file a formal  
22 application for retirement with the employees' retirement system  
23 not less than thirty days nor more than ninety days prior to the

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1 date of retirement.

2 (c) Notwithstanding the age and length of service  
3 requirements of sections 88-73 and 88-281, Hawaii Revised  
4 Statutes, an employee member shall qualify for the special  
5 retirement incentive benefit if, on the employee's retirement  
6 date, the employee meets any one of the following criteria:

7 (1) Has at least ten years of credited service as a  
8 contributory class A or B member and is at least fifty  
9 years of age;

10 (2) Has at least twenty years of credited service as a  
11 contributory class A or B member, irrespective of age;

12 (3) Has at least ten years of credited service as a  
13 noncontributory class C member and is at least fifty-  
14 seven years of age; or

15 (4) Has at least twenty-five years of credited service as a  
16 noncontributory class C member, irrespective of age.

17 (d) Any employee who exercises the option of the special  
18 retirement incentive benefit under this section because the  
19 employee does not qualify with respect to the age and length of  
20 service requirements under sections 88-73 and 88-281, Hawaii  
21 Revised Statutes, to receive a retirement benefit without  
22 penalty, shall not have the retirement benefit reduced in  
23 accordance with the actuarial formula normally used by the

1 employees' retirement system for the calculation of early  
2 retirement benefits.

3 (e) The head of each affected department shall transmit a  
4 list of employees who elected and received the special retirement  
5 incentive benefit to the board of trustees of the employees'  
6 retirement system not less than thirty days but not more than  
7 ninety days prior to the employee's retirement date. The head of  
8 each affected department shall certify that the employees on the  
9 list have in fact selected the special retirement incentive  
10 benefit in lieu of receiving the voluntary severance benefit and  
11 exercising any reduction-in-force rights under chapter 89 or 89C,  
12 Hawaii Revised Statutes, as applicable.

13 (f) The board of trustees of the employees' retirement  
14 system shall make payments with respect to all eligible employees  
15 who retire pursuant to this section. The board shall determine  
16 the portion of the additional actuarial present value of benefits  
17 to be charged to the State based on retirements authorized under  
18 this section. If necessary, the State shall make additional  
19 payments to the employee's retirement system in the amounts  
20 required to amortize the additional actuarial present value of  
21 benefits over a period of five years. The unfunded actuarial  
22 present values of benefits payable under this section are part of

**23 the unfunded accrued liability of the employees' retirement**

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1 system under sections 88-122 and 88-123, Hawaii Revised Statutes.

2       SECTION 116. No voluntary severance or special retirement  
3 incentive benefit shall be payable to an employee discharged for  
4 disciplinary reasons or for reasons other than a reduction-in-  
5 force or workforce restructuring plan.

6       SECTION 117. No employee who has received any benefit under  
7 this part shall be reemployed by the State in any capacity as  
8 follows:

- 9       (1) For an employee receiving a voluntary severance benefit  
10           under section 114, unless the gross amount of the  
11           voluntary severance benefit paid under section 114 is  
12           returned to the appropriate fund prior to the  
13           commencement of reemployment if the employee is  
14           reemployed within five years from the date of  
15           separation; or
- 16       (2) For an employee receiving a special retirement  
17           incentive benefit under section 115, unless all  
18           benefits derived from the specific retirement incentive  
19           benefit under section 115, as determined by the board  
20           of trustees of the employees' retirement system, are  
21           forfeited prior to the commencement of reemployment.



22 SECTION 118. After payments of all costs associated with  
23 the voluntary severance and special retirement incentive  
24 benefits, the remaining payroll balances shall not be expended

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1 for any purpose and shall be lapsed into the appropriate fund.

2 SECTION 119. The head of each affected state department who  
3 provided benefits under this part shall:

- 4 (1) Transmit a report of the every position identified for  
5 abolishment and vacated under this part to the  
6 directors of finance and human resources development  
7 who shall abolish these positions from the appropriate  
8 budget and personnel files. The governor shall report  
9 this information to the legislature no later than  
10 twenty days prior to the convening of each regular  
11 session beginning with 2001;
- 12 (2) Reduce its personnel count by every position identified  
13 for abolishment and vacated under this part, whether  
14 the former incumbent vacated the position as a result  
15 of accepting a voluntary severance benefit or special  
16 retirement incentive benefit authorized under this part  
17 or of exercising reduction-in-force rights; and
- 18 (3) Transmit a list that includes each employee who

19 received benefits under this part and the benefit  
20 received by the employee to the directors of finance  
21 and human resources development.  
22 SECTION 120. The departments of human resources development

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1 and budget and finance shall develop and administer guidelines  
2 and timeframes for participating agencies to implement the  
3 voluntary separation and special retirement incentive benefits  
4 under this part.

5 The department of human resources development, the  
6 employees' retirement system, and the public employees health  
7 fund shall work cooperatively to ensure briefings are provided  
8 prior to the implementation of any workforce restructuring plan  
9 to educate the employees whose positions are being abolished or  
10 who are directly affected by a reduction-in-force or workforce  
11 restructuring plan.

12 The department of human resources development shall report  
13 to the legislature on any restructuring or reengineering  
14 activities initiated as a consequence of this part within the  
15 various departments of the state executive branch no later than  
16 twenty days prior to the convening of each regular session  
17 beginning with the 2001 regular session.

18       The report shall include but not be limited to a description  
 19 of the abolished positions and how the new workforce structure  
 20 will more efficiently serve the needs of the agency's clients and  
 21 appropriate criteria by which to measure the new workforce  
 22 structure's effectiveness.

23       SECTION 121. The governor is authorized to provide funds to

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1 obtain matching federal moneys to retrain employees in the state  
 2 executive branch who separated from service under this part.

3       SECTION 122. Optional participation by a county, the  
 4 judiciary, the Hawaii health systems corporation, the office of  
 5 Hawaiian affairs, or the legislative branch of the State or a  
 6 county. The city and county of Honolulu, the county of Hawaii,  
 7 the county of Kauai, the county of Maui, the judiciary, the  
 8 Hawaii health systems corporation, the office of Hawaiian  
 9 affairs, or the legislative branch of the State or a county may  
 10 opt to provide the special retirement incentive benefit under  
 11 section 115 to their respective employees under a workforce  
 12 restructuring plan; provided that the special retirement  
 13 incentive is in lieu of any voluntary severance benefit that may  
 14 be offered under its plan and is consistent with all of the  
 15 provisions in section 115. All references to the State in

16 section 115 shall include the a jurisdiction opting to provide  
 17 the special retirement incentive benefit. The chief executive or  
 18 other appropriate authority of the respective jurisdictions shall  
 19 ensure that approval of its respective legislative body is  
 20 obtained, if required, before offering the special retirement  
 21 incentive under section 115.

22 SECTION 123. The auditor shall conduct a study on the  
 23 effects on state government caused by this part and shall submit  
 24 a report to the legislature and the governor not later than

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1 twenty days prior to the convening of the 2004 regular session.

2 SECTION 124. This part shall be repealed on June 30, 2003.

3 PART VI

4 SECTION 125. Chapter 302A, part III, Hawaii Revised  
 5 Statutes, is amended by adding a new section to be appropriately  
 6 designated and to read as follows:

7 "§302A- School personnel engaged in instructional work,  
 8 other than teachers and educational officers. (a) The board of  
 9 education shall appoint teaching assistants, educational  
 10 assistants, bilingual/bicultural school-home assistants, school  
 11 psychologists, psychological examiners, speech pathologists,  
 12 athletic health care trainers, alternative school work/study  
 13 assistants, alternative school educational/supportive services

14 specialists, and alternative school project coordinators as may  
 15 be required to carry out the purposes of this chapter. The  
 16 board, in consultation with the department of human resources  
 17 development, shall prescribe the duties and qualifications for  
 18 positions, adopt classification systems, classify and fix the  
 19 compensation of positions accordingly, provide a classification  
 20 appeals procedure, and establish probationary and other  
 21 requirements for tenure that protects employees from being  
 22 disciplined without proper cause.

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1 (b) Employees in positions under subsection (a) shall be  
 2 board of education appointees exempt from chapter 76, but the  
 3 application of section 89-6 with respect to collective bargaining  
 4 coverage and the employer for purposes of collective bargaining  
 5 shall not be affected. Except for rights or benefits  
 6 specifically conditioned upon membership in the civil service,  
 7 the wages, hours, benefits, and other terms and conditions of  
 8 employment for these employees in existence on the effective date  
 9 of this Act shall remain in effect, but may be changed as  
 10 provided in chapter 89 or 89C, as applicable. Any employee who  
 11 is a member of the civil service on the effective date of this

12 Act shall be granted tenure by the board of education without the  
13 necessity of meeting any probationary or other requirements for  
14 tenure that the board of education establishes."

15 **PART VII**

16 **SECTION 126.** Section 88E-3, Hawaii Revised Statutes, is  
17 amended to read as follows:

18 "§88E-3 Board of trustees. (a) The authority to establish  
19 the plan and [make] implement this chapter [effective] is vested  
20 in the board of trustees. The board shall be placed within the  
21 department of human resources development for administrative  
22 purposes.

23 (b) The board shall adopt such rules to carry out this

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1 chapter in accordance with chapter 91[.]; provided that rules  
2 necessary for the plan to be in compliance with federal laws or  
3 regulations may be adopted without regard to chapter 91. The  
4 board may engage services, as necessary, to establish,  
5 administer, or maintain the plan under its direction. An  
6 administrator may be engaged only after a solicitation of  
7 proposals from interested persons in accordance with  
8 specifications deemed appropriate by the board."

9 **SECTION 127.** Section 88E-8, Hawaii Revised Statutes, is  
10 amended to read as follows:

11       "§88E-8 Deferred funds. Sums deferred under the plan, as  
 12 well as property and rights purchased with such amounts and  
 13 income attributable to such amounts, shall be held in trust  
 14 outside the state treasury in accordance with section 457 of the  
 15 Internal Revenue Code of 1986, as amended, for the exclusive  
 16 benefit of participants and their beneficiaries."

17       SECTION 128. Section 88F-3, Hawaii Revised Statutes, is  
 18 amended by amending subsection (b) as follows:

19       "(b) The board shall adopt, in accordance with chapter 91,  
 20 rules [as are] necessary to implement this chapter[.]; provided  
 21 that rules necessary for the plan to be in compliance with  
 22 federal laws or regulations may be adopted without regard to  
 23 chapter 91. The board may engage services, as necessary, to

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1 establish, administer, or maintain the plan under its direction.  
 2 An administrator may be engaged only after a solicitation of  
 3 proposals from interested persons in accordance with  
 4 specifications deemed appropriate by the board."

5       SECTION 129. Section 88F-6, Hawaii Revised Statutes, is  
 6 amended to read as follows:

7       "§88F-6 Deferred funds. Sums deferred under the plan, as  
 8 well as property and rights purchased with the amounts and income

9 attributable to the amounts, shall be held in trust outside the  
10 state treasury in accordance with section 457 of the Internal  
11 Revenue Code of 1986, as amended, for the exclusive benefit of  
12 participants and their beneficiaries."

13 SECTION 130. Section 398-1, Hawaii Revised Statutes, is  
14 amended by amending the definition of "employer" to read as  
15 follows:

16 ""Employer" means any individual or organization, [including  
17 the State, any of its political subdivisions, any instrumentality  
18 of the State or its political subdivisions,] any partnership,  
19 association, trust, estate, joint stock company, insurance  
20 company, or corporation, whether domestic or foreign, or receiver  
21 or trustee in bankruptcy, or the legal representative of a  
22 deceased person, who employs one hundred or more employees for  
23 each working day during each of twenty or more calendar weeks in

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1 the current or preceding calendar year."

2 PART VIII

3 SECTION 131. Chapter 77, Hawaii Revised Statutes, is  
4 repealed.

5 SECTION 132. Chapter 79, Hawaii Revised Statutes, is  
6 repealed.

7 SECTION 133. Chapter 80, Hawaii Revised Statutes, is









3 retirement system's investment earnings the sum of \$150,000, or  
4 so much thereof as may be necessary for fiscal year 2000-2001,  
5 and the same sum, or so much as may be necessary for fiscal year  
6 2001-2002, for the employees' retirement system to process the  
7 special retirement incentive benefit provided to state employees  
8 in the executive branch whose positions are being eliminated as  
9 authorized in section 115 of this Act. The sum appropriated  
10 shall be expended by the employees' retirement system.

11 SECTION 144. The department of human resources shall  
12 submit, no later than twenty days prior to the convening of each  
13 regular session beginning with the regular session of 2001, a  
14 report of the positions that were permanently exempted from the  
15 civil service prior to the effective date of this Act which it  
16 reviewed during the year. The report shall include, but not be  
17 limited to, when the position was established, the purpose of the  
18 position, the reason for the exemption from civil service, and  
19 findings and recommendations on whether the position should  
20 remain exempt or be converted to a civil service position. With  
21 respect to positions that should remain exempt, the department  
22 shall indicate whether the position should be exempted  
23 permanently and, if so, whether from civil service recruitment

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1 procedures or the classification systems, or both. With respect

2 to positions recommended for inclusion into the civil service,  
3 the department shall submit proposed legislation to convert  
4 exempt positions to civil service positions and address the  
5 impact of the conversion on the incumbents in these positions, if  
6 any.

7 SECTION 145. All acts passed by the legislature during the  
8 regular session of 2000, whether enacted before or after the  
9 effective date of this Act, shall be amended to conform to this  
10 Act unless such acts specifically provide that this Act is being  
11 amended.

12 SECTION 146. If any part of this Act is found to be in  
13 conflict with federal requirements that are a prescribed  
14 condition for the allocation of federal funds to the State or a  
15 county, the conflicting part of this Act is inoperative solely to  
16 the extent of the conflict and with respect to the agencies  
17 directly affected, and this finding does not affect the operation  
18 of the remainder of this Act in its application to the agencies  
19 concerned. The rules prescribed to implement this Act shall meet  
20 federal requirements that are a necessary condition to the  
21 receipt of federal funds by the State.

22 SECTION 147. If any provision of this Act, or the  
23 application thereof to any person or circumstance is held  
24 invalid, the invalidity shall not affect other provisions or

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1 applications of the Act which can be given effect without the  
2 invalid provision or application, and to this end the provisions  
3 of this Act are severable.

4 SECTION 148. On or before July 1, 2002, any existing rule,  
5 ordinance, executive order or directive, or provision in a  
6 collective bargaining agreement, that is not consistent with this  
7 Act shall be amended to conform with this Act. Any new or  
8 amended rule, ordinance, executive order or directive that must  
9 be adopted, enacted, or negotiated to carry out this Act shall  
10 take effect no later than July 1, 2002.

11 SECTION 149. The provisions of sections 131, 132, 133, 134,  
12 135, and 136 of this Act notwithstanding, the rights, benefits,  
13 and privileges currently enjoyed by civil servants under chapters  
14 77, 79, 80, 81, 82, and 83 shall not be diminished or impaired,  
15 unless comparable rights, benefits, and privileges are either  
16 negotiated into collective bargaining agreements or established  
17 by executive order for civil servants.

18 SECTION 150. Upon the repeal of chapter 77, Hawaii Revised  
19 Statutes, wherever the words "chapters 76 and 77" appear in the  
20 Hawaii Revised Statutes, the revisor of statutes shall substitute  
21 the words "chapter 76" as the context requires.

22 SECTION 151. Statutory material to be repealed is  
23 bracketed. New statutory material is underscored.

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1       SECTION 152. This Act shall take effect on July 1, 2002;  
2 provided that section 26-5(f), Hawaii Revised Statutes, in  
3 Section 2 and Parts V and IX of this Act shall take effect on  
4 July 1, 2000.

