

JOURNAL
of the
SENATE OF THE
THIRTY - FIRST LEGISLATURE
of the
STATE OF HAWAI‘I

Special Session of 2021


Convened Tuesday, July 6, 2021
Adjourned Thursday, July 8, 2021

CERTIFICATE

We hereby certify that the minutes for each day's session as appears in this Senate Journal are true and correct and that a copy is on file in the Archives of the State of Hawai'i.



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Clerk of the Senate

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of the
STATE OF HAWAI‘I

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Third	KANUHA, DRU MAMO (D)	Kona, Ka‘ū
Fourth	INOUYE, LORRAINE R. (D)	Hilo, Hāmākua, Kohala, Waimea, Waikoloa, Kona
Fifth	KEITH-AGARAN, GILBERT S.C. (D)	Wailuku, Waihe‘e, Kahului
Sixth	BAKER, ROSALYN H. (D)	South and West Maui
Seventh	DECOITE, LYNN (D)	Hāna, East and Upcountry Maui, Moloka‘i, Lāna‘i, Kaho‘olawe
Eighth	KOUCHI, RONALD D. (D)	Kaua‘i, Ni‘ihau

DISTRICT NO.	NAME	DISTRICT
Ninth	CHANG, STANLEY (D)	Hawai'i Kai, Kuli'ou'ou, Niu, 'Āina Haina, Wai'alae-Kāhala, Diamond Head
Tenth	IHARA, JR., LES (D)	Kaimukī, Kapahulu, Pālolo, St. Louis Heights, Maunalani Heights, Mō'ili'ili, Ala Wai
Eleventh	TANIGUCHI, BRIAN T. (D)	Mānoa, Makiki, Punchbowl, Papakōlea
Twelfth	MORIWAKI, SHARON Y. (D)	Waikīkī, Ala Moana, Kaka'ako, McCully, Mō'ili'ili
Thirteenth	RHOADS, KARL (D)	Dowsett Highlands, Pu'unui, Nu'uaniu, Pacific Heights, Pauoa, Punchbowl, Pālama, Liliha, Iwilei, Chinatown, and Downtown
Fourteenth	KIM, DONNA MERCADO (D)	Kapālama, 'Ālewa, Kalihi Valley, Ft. Shafter, Moanalua Gardens & Valley, portions of Hālawā and 'Aiea
Fifteenth	WAKAI, GLENN (D)	Kalihi, Māpunapuna, Airport, Salt Lake, Āliamanu, Foster Village, Hickam, Pearl Harbor
Sixteenth	MISALUCHA, BENNETTE E. (D)	Pearl City, Momilani, Pearlridge, 'Aiea, Royal Summit, 'Aiea Heights, Newtown, Waimalu, Hālawā, Pearl Harbor

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Eighteenth	KIDANI, MICHELLE N. (D)	Mililani Town, portion of Waipi'o Gentry, Waikele, Village Park, Royal Kunia
Nineteenth	FEVELLA, KURT (R)	‘Ewa Beach, Ocean Pointe, ‘Ewa by Gentry, Iroquois Point, portion of ‘Ewa Villages
Twentieth	GABBARD, MIKE (D)	Kapolei, Makakilo, and portions of ‘Ewa, Kalaeloa, and Waipahu
Twenty-First	SHIMABUKURO, MAILE S.L. (D)	Kalaeloa, Honokai Hale, Ko ‘Olina, Nānākuli, Mā‘ili, Wai‘anae, Mākaha, Mākua
Twenty-Second	DELA CRUZ, DONOVAN M. (D)	Mililani Mauka, Waipi'o Acres, Wheeler, Wahiawā, Whitmore Village, portion of Poamoho
Twenty-Third	RIVIERE, GIL (D)	Kāne‘ohe, Ka‘a‘awa, Hau‘ula, Lā‘ie, Kahuku, Waialua, Hale‘iwa, Wahiawā, Schofield Barracks, Kunia
Twenty-Fourth	KEOHOKALOLE, JARRETT (D)	Kāne‘ohe, Kāne‘ohe MCAB, Kailua, He‘eia, ‘Āhuimanu
Twenty-Fifth	LEE, CHRIS (D)	Kailua, Lanikai, Enchanted Lake, Keolu Hills, Maunawili, Waimānalo, Hawai‘i Kai, Portlock

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STATE OF HAWAII
SPECIAL SESSION OF 2021**



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18th Senatorial District
Vice President
Chair: Education



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Majority Leader



LES IHARA, JR.
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Majority Policy Leader



LYNN DECOITE
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Majority Floor Leader



LORRAINE R. INOUYE
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19th Senatorial District
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MAILE S.L. SHIMABUKURO
21st Senatorial District
Chair: Hawaiian Affairs



GLENN WAKAI
15th Senatorial District
Chair: Energy, Economic
Development, and Tourism



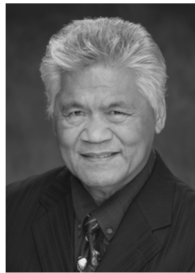
CAROL T. TANIGUCHI
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C.M. PARK KALEIWAHEA
Assistant Sergeant-at-Arms



BIENVENIDO C. VILLAFIOR
Sergeant-at-Arms

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THE
THIRTY-FIRST LEGISLATURE
STATE OF HAWAII
SPECIAL SESSION OF 2021
JOURNAL OF THE SENATE

FIRST DAY

Tuesday, July 6, 2021

The Senate of the Thirty-First Legislature of the State of Hawaii, Special Session of 2021, was called to order at 11:34 a.m., by Senator Ronald D. Kouchi, President of the Senate.

The Chair then announced:

“Members, this morning we are convening in special session for the sole purpose of acting upon bills returned by the Governor pursuant to Article III, Section 16 of the Hawaii State Constitution.”

At this time, the Chair called upon the Honorable Chief Justice Mark E. Recktenwald, Chief Justice of the Supreme Court, State of Hawaii, to administer the oath of office to the Honorable Lynn DeCoite, who was appointed by the Governor to represent Senate District 7 on June 17, 2021; the Chair also requested that the Honorable Lynn DeCoite join them at the rostrum.

At the rostrum, Chief Justice Recktenwald administered the oath of office to the newly appointed member of the Senate, the Honorable Lynn DeCoite.

Senator DeCoite then returned to her seat.

The Chair then stated:

“Before we proceed further, I would like to note for the record that the ongoing COVID-19 pandemic qualifies as a ‘catastrophic disaster’ as defined in Senate Rule 38.5 and there is ‘good cause’ for authorizing Senate members to continue participating in any meeting of members via virtual attendance as set forth in Senate Rule 38.5 for the duration of this Special Session.”

The Roll was then called showing all Senators present, with Senators Chang, Fevella, Gabbard, Inouye, Kidani, Lee, and Shimabukuro present and participating via videoconference.

The Chair then announced:

“We are just in receipt of the governor’s veto messages. They are being processed, so, if there are no objections from the members, we will reconvene at 2:30 this afternoon in the Senate chambers.”

At 11:38 a.m., the Senate stood in recess subject to the call of the Chair.

The Senate reconvened at 2:44 p.m.

SENATE CONCURRENT RESOLUTION

The following concurrent resolution (S.C.R. No. 1) was read by the Clerk and was disposed of as follows:

S.C.R. No. 1 “SENATE CONCURRENT RESOLUTION RELATING TO THE RECESS DAY FOR THE SPECIAL SESSION OF 2021.”

Offered by: Senator Kanuha.

On motion by Senator DeCoite, seconded by Senator Fevella and carried, S.C.R. No. 1 was adopted.

FLOOR AMENDMENTS

H.B. No. 54, H.D. 1, S.D. 1, C.D. 1:

Senator Dela Cruz offered the following amendment (Floor Amendment No. 1) to H.B. No. 54, H.D. 1, S.D. 1, C.D. 1 to amend the bill to meet the Governor’s objections contained in Gov. Msg. No. 1278:

SECTION 1. House Bill No. 54, H.D. 1, S.D. 1, C.D. 1, is amended by deleting page 1, lines 7-8.

SECTION 2. House Bill No. 54, H.D. 1, S.D. 1, C.D. 1, is amended by deleting Sections 3 and 4.

SECTION 3. House Bill No. 54, H.D. 1, S.D. 1, C.D. 1, is amended by adding a new Section 3 to read as follows:

“SECTION 3. There is appropriated out of the general revenues of the State of Hawaii the sum of \$238,944,470 or so much thereof as may be necessary for fiscal year 2021-2022 and the sum of \$257,446,927 or so much thereof as may be necessary for fiscal year 2022-2023 for debt service payments – state (BUF721); provided that of the general fund appropriation for debt service under this section for fiscal biennium 2021-2023, balances that are unrequired for debt service payments may be used to pay for expenses incurred pursuant to section 39-14, Hawaii Revised Statutes, and for costs of bond issuance, or may be transferred to retirement benefits payments (BUF741-BUF748) and health premium payments (BUF761-BUF768); provided further that the funds shall not be expended for any other purpose; and provided further that any unexpended funds shall lapse to the credit of the general fund at the end of the respective fiscal year for which the appropriation was made.

The sums appropriated shall be expended by the department of budget and finance for the purposes of this section.”

SECTION 4. House Bill No. 54, H.D. 1, S.D. 1, C.D. 1, is amended by adding a new Section 4 to read as follows:

“SECTION 4. Provided that, notwithstanding any law to the contrary, appropriations in sections 2 and 3 that are deemed necessary for the operations of a program, the appropriations may be transferred with the approval of the governor to the General Appropriations Act of 2021 (House Bill No. 200, H.D. 1, S.D. 1, C.D. 1, as enacted) or the Supplemental Appropriations Act of 2022 for program execution and expenditure; provided further that the transferred appropriations shall be expended for the purposes indicated in this Act and shall be subject to the provisions of the General Appropriations Act of 2021 and the Supplemental Appropriations Act of 2022; and provided further that the transferred appropriations shall be incorporated into all budgetary details of the General

Appropriations Act of 2021 and the Supplemental Appropriations Act of 2022, as applicable.”

Senator Dela Cruz moved that Floor Amendment No. 1 be adopted, seconded by Senator Keith-Agaran.

Senator Dela Cruz rose to speak in support of the amendment as follows:

“The bill appropriates general funds and federal stimulus funds through the Department of Budget and Finance to cover fixed costs and replenish the state’s rainy day fund. The C.D. 1 includes funds from the American Rescue Plan Act to pay debt service, which is prohibited by the Department of the Treasury rules. The floor amendment will address this issue by replacing ARPA funds with general fund revenues.”

The motion to adopt Floor Amendment No. 1 was put by the Chair and carried.

By unanimous consent, H.B. No. 54, H.D. 1, S.D. 1, C.D. 1, A.D. 1, entitled: “A BILL FOR AN ACT RELATING TO THE STATE BUDGET,” was placed on the calendar for Final Reading on Thursday, July 8, 2021.

H.B. No. 1299, H.D. 1, S.D. 1, C.D. 1:

Senator Dela Cruz offered the following amendment (Floor Amendment No. 2) to H.B. No. 1299, H.D. 1, S.D. 1, C.D. 1 to amend the bill to meet the Governor’s objections contained in Gov. Msg. No. 1292:

SECTION 1. House Bill No. 1299, H.D. 1, S.D. 1, C.D. 1, is amended by deleting section 10 of the bill, which would have repealed section 157-29, Hawaii Revised Statutes, relating to the milk control special fund.

SECTION 2. House Bill No. 1299, H.D. 1, S.D. 1, C.D. 1, is amended by deleting part XII of the bill, relating to Auditor’s Report No. 20-16, Department of Hawaiian Home Lands.

SECTION 3. House Bill No. 1299, H.D. 1, S.D. 1, C.D. 1, is amended by deleting section 62 of the bill, which would have abolished the national mortgage settlement trust account.

SECTION 4. House Bill No. 1299, H.D. 1, S.D. 1, C.D. 1, is amended by redesignating all remaining parts and renumbering all remaining sections accordingly.

SECTION 5. House Bill No. 1299, H.D. 1, S.D. 1, C.D. 1, is amended by changing the reference in the effective date on page 72, line 14, from section 60 to section 57.

Senator Dela Cruz moved that Floor Amendment No. 2 be adopted, seconded by Senator Keith-Agaran.

Senator Dela Cruz rose to speak in support of the amendment as follows:

“The bill repeals certain non-general funds from various departments to address the governor’s concerns as outlined in his rationale provided on June 21 via his intent-to-veto list. The floor amendment does the following: deletes section 10, which would have repealed the milk control special fund; deletes part XII, relating to the Department of Hawaiian Home Lands, which would have reclassified the Hawaiian home receipts trust fund as a trust account; deletes section 62, which would have abolished the national mortgage settlement trust account; and other conforming amendments.”

The motion to adopt Floor Amendment No. 2 was put by the Chair and carried.

By unanimous consent, H.B. No. 1299, H.D. 1, S.D. 1, C.D. 1, A.D. 1, entitled: “A BILL FOR AN ACT RELATING TO NON-GENERAL FUNDS,” was placed on the calendar for Final Reading on Thursday, July 8, 2021.

S.B. No. 589, S.D. 2, H.D. 2, C.D. 1:

Senator Kim offered the following amendment (Floor Amendment No. 3) to S.B. No. 589, S.D. 2, H.D. 2, C.D. 1 to amend the bill to meet the Governor’s objections contained in Gov. Msg. No. 1297:

SECTION 1. S.B. 589, S.D. 2, H.D.2, C.D. 1, is amended by deleting the language on page 1, line 1, to page 26, line 20, and inserting the following:

PART I

SECTION 1. The legislature finds that the University of Hawaii cancer center reduces the burden of cancer through research, education, patient care, and community outreach. The University of Hawaii cancer center is the only National Cancer Institute-designated cancer center in Hawaii and the Pacific region. The University of Hawaii cancer center is a member of the Hawaii Cancer Consortium, which includes five hospital groups and the University of Hawaii John A. Burns school of medicine.

The University of Hawaii John A. Burns school of medicine educates and trains health care professionals, including physicians, biomedical scientists, and allied health workers. The University of Hawaii John A. Burns school of medicine also conducts fundamental medical research and translates discoveries into delivery practices. Because the University of Hawaii John A. Burns school of medicine is a community-based medical school without its own university hospital, it partners with private hospitals in the community to achieve its educational mission.

The legislature further finds that public funds and other resources the State has made available to the University of Hawaii John A. Burns school of medicine and University of Hawaii cancer center have been substantial. The magnitude of state funds and other resources provided to the University of Hawaii, the distinction of the University being the sole public institution of higher education in the State, and the University of Hawaii cancer center being the only National Cancer Institute-designated cancer center in Hawaii underscore the importance of establishing complementary strategic priorities and coordinating the management and deployment of state resources appropriated to the University of Hawaii John A. Burns school of medicine and University of Hawaii cancer center.

It is in the public’s interest that State resources be efficiently and effectively managed to optimize the public benefits. Just as co-locating the physical facilities for the University of Hawaii John A. Burns school of medicine and University of Hawaii cancer center on adjoining sites in Kakaako promotes synergistic efforts, the legislature determines that it is a statewide concern to ensure that the management of public resources provided to the University of Hawaii John A. Burns school of medicine and University of Hawaii cancer center be integrated, coordinated, and focused on common priorities to avoid unnecessary duplication of administrative expenses or conflicting priorities. Maximized efficiencies will benefit the University of Hawaii cancer center, University of Hawaii John A. Burns school of medicine, University of Hawaii at Manoa, and the State by reducing or eliminating unnecessary expenditures and optimizing operations.

Accordingly, the purpose of this part is to:

- (1) Establish the University of Hawaii cancer center in statute as the cancer research center of Hawaii; and
- (2) Require the cancer research center of Hawaii to be administratively affiliated with the University of Hawaii John A. Burns school of medicine and possibly merge the administrative services and infrastructure teams of both entities to offer greater efficiency.

SECTION 2. Chapter 304A, part IV, Hawaii Revised Statutes, is amended by adding a new subpart to be appropriately designated and to read as follows:

“ . **Cancer Research Center of Hawaii**

§304A- Cancer research center of Hawaii. (a) There is established an organized research unit, hereinafter known as the cancer research center of Hawaii, to conduct cancer research. The cancer research center of Hawaii shall be administered by a director to be appointed in accordance with board of regents policy.

(b) The cancer research center of Hawaii shall be administratively affiliated with the University of Hawaii John A. Burns school of medicine. The administrative services and infrastructure teams of the cancer research center of Hawaii and the University of Hawaii John A. Burns school of medicine may be merged to achieve greater efficiency.

(c) The provost of the University of Hawaii at Manoa shall have authority to direct and achieve efficiencies at the University of Hawaii John A. Burns school of medicine and cancer research center of Hawaii.

(d) The programs of the University of Hawaii John A. Burns school of medicine and cancer research center of Hawaii, and the University of Hawaii at Manoa shall identify opportunities to:

- (1) Capitalize on collaboration between the programs; and
- (2) Maximize operational efficiencies between the University of Hawaii John A. Burns school of medicine and cancer research center of Hawaii,

including but not limited to shared services and personnel whenever feasible and utilization of centralized services available through the University of Hawaii at Manoa whenever appropriate.

(e) The cancer research center of Hawaii's research agenda shall focus on research, education, patient care, and community outreach and reflect an understanding of the ethnic, cultural, and environmental characteristics of the State and the Pacific region.

- (f) The cancer research center of Hawaii may:
- (1) Engage in international research collaborations;
 - (2) Undertake research studies and clinical trials; and
 - (3) Participate in projects and programs of the National Cancer Institute.”

PART II

SECTION 3. The purpose of this part is to further efforts to ensure the efficient and effective management of public resources provided to the University of Hawaii John A. Burns school of medicine and cancer research center of Hawaii to optimize public benefits.

SECTION 4. (a) The University of Hawaii shall develop and implement a plan for the University of Hawaii John A. Burns school of medicine and cancer research center of Hawaii to achieve greater operational efficiencies, reduce duplication of services, and share administrative functions to the maximum extent practicable.

(b) The president of the University of Hawaii shall submit a report on the progress of the development and implementation of the plan as provided under this part to the legislature no later than twenty days prior to the convening of the regular session of 2023.

PART III

SECTION 5. The purpose of this part is to allow the University of Hawaii to continue its contribution to research commercialization and economic development by extending the sunset date of Act 38, Session Laws of Hawaii 2017, for two years, until June 30, 2024, while promoting accountability and transparency.

SECTION 6. Section 84-10, Hawaii Revised Statutes, is amended to read as follows:

“~~§84-10~~ **University of Hawaii; technology transfer activities; exemption.** (a) Sections 84-12, 84-13, 84-14 to 84-16, and 84-18 shall not apply to technology transfer activities sponsored by the University of Hawaii; provided that the technology transfer activities comply with the regulatory framework and research compliance program and policies

approved by the board of regents of the University of Hawaii [~~board of regents~~].

(b) Notwithstanding subsection (a), the University of Hawaii shall not sponsor, enter into, or continue to engage in technology transfer activities with a private person in which an employee of the University of Hawaii has a conflict of interest as provided in section 84-14, including a financial interest, irrespective of whether the State benefits from the technology transfer activities; provided that the prohibition under this subsection shall not apply if:

- (1) The technology transfer activities with the private person promote the timely and efficient commercialization of intellectual property created by basic and applied research at the University of Hawaii;
- (2) The State stands to benefit from the technology transfer activities with the private person;
- (3) The technology transfer activities with the private person comply with the regulatory framework and research compliance program and policies approved by the board of regents of the University of Hawaii;
- (4) The employee's conflict of interest is disclosed at the time of the proposal, and the proposals and binding agreements for each of the technology transfer activities with the private person are reviewed by the state ethics commission to assure compliance with ethics laws;
- (5) Any changes to the terms and conditions of the technology transfer activities are reported to the state ethics commission;
- (6) The employee with the conflict of interest does not:
 - (A) Take official action affecting the technology transfer activities with the private person; or
 - (B) Directly or indirectly supervise an employee when that employee takes official action affecting the technology transfer activities with the private person; and
- (7) During the term of the technology transfer activities with the private person, the following employees file annually with the state ethics commission a disclosure of financial interests pursuant to section 84-17:
 - (A) Employees who have a conflict of interest as provided in section 84-14, including a financial interest, in the private person;
 - (B) Employees who take official action affecting the technology transfer activities with the private person; and
 - (C) Employees who directly or indirectly supervise an employee who takes official action affecting the technology transfer activities with the private person.

(c) Notwithstanding subsection (a), any technology transfer activities sponsored by, entered into, or engaged in by the University of Hawaii in violation of subsection (b) is voidable under section 84-16; provided that this subsection shall not apply to contracts for technology transfer activities entered into or extended by the University of Hawaii prior to January 1, 2022.

(d) The University of Hawaii shall file annually with the state ethics commission a disclosure, including its conflict of interest management plan, of any conflict of interest of any employee relating to its technology transfer activities.

~~(b)~~ (c) As used in this section, ~~“technology”~~:
“Person” means any individual, firm, association, organization, sole proprietorship, partnership, company, corporation, joint venture, trust, or any other form of business or legal entity or group of individuals.

“Technology transfer activities” means the process of transferring scientific findings from the public sector to the private sector for the purpose of commercial development and application for personal or financial gain. “Technology transfer activities” may include creating joint ventures, limited

partnerships, or other corporate forms; allocating equity shares, partnership interests, or other forms of participation; identifying new technologies; protecting technologies through patents and copyrights; forming development and commercialization strategies, arrangements, or projects; and other related activities.”

SECTION 7. Section 304A-121, Hawaii Revised Statutes, is amended to read as follows:

“~~§~~**304A-121** **Technology transfer; reporting.** The board of regents of the University of Hawaii shall submit a written report to the legislature no later than twenty days prior to the convening of each regular session regarding:

- (1) The development ~~and~~, implementation, and enforcement of its regulatory framework and research compliance program to reflect ethical research principles and technology transfer regulations used by the federal government; ~~and~~
- (2) The technology transfer activities of the University of Hawaii, as defined in section 84-10, and the status of such activities~~;~~; and
- (3) A disclosure, including the University of Hawaii’s conflict of interest management plan, of any conflict of interest of any employee of the University of Hawaii relating to its technology transfer activities.”

SECTION 8. Act 38, Session Laws of Hawaii 2017, is amended by amending section 5 to read as follows:

“SECTION 5. This Act shall take effect upon its approval; provided that this Act shall be repealed on June 30, ~~2022~~ 2024.”

PART IV

SECTION 9. The legislature finds that pursuant to the repeal and reenactment provisions of Act 39, Session Laws of Hawaii 2017, chapter 304A, part IV, subpart P, Hawaii Revised Statutes, regarding the University of Hawaii innovation and commercialization initiative program, was repealed on June 30, 2021. The purpose of this part is to reenact part IV, subpart P, for three years to allow the University of Hawaii to continue the innovation and commercialization initiative program and include additional provisions that promote accountability and transparency.

SECTION 10. Chapter 304A, Hawaii Revised Statutes, is amended by adding a new subpart to be appropriately designated and to read as follows:

“ . **Innovation and Commercialization Initiative Program**
§304A- Innovation and commercialization initiative program; establishment. There is established within the University of Hawaii an innovation and commercialization initiative program under the direction of the vice president for research and innovation.

§304A- Innovation and commercialization initiative program; implementation. In implementing the innovation and commercialization initiative program, the University of Hawaii may promote, sponsor, and participate in the transformation of the products of its research and instructional activities into viable economic enterprises and may create, finance, and participate in organizations that contribute to the economic development and workforce diversification of the State using university research and personnel. The university, without limitation, may:

- (1) Adopt policies and management procedures to carry out the purposes of the program;
- (2) Contribute equity, loan funds, or participate directly or indirectly to finance concepts or proposals that are likely to lead to viable businesses, economic development, or workforce opportunities based on university research;
- (3) Enter into contracts and other appropriate arrangements with start-up ventures to provide loans, initial and expansion capital, and other forms of financial assistance;

- (4) Solicit, evaluate, and assist in the preparation, drafting, and refinement of business plans and proposals;
- (5) Provide advice, instruction, training, and technical and marketing assistance to support and promote the enterprises in which the university invests;
- (6) Develop, coordinate, and deliver instruction, training, and outreach programs to build and maintain the capacity to sustain these economic enterprises;
- (7) Implement specialized programs designed to encourage the development of new products, businesses, and markets;
- (8) Prepare, publish, and distribute technical studies, reports, bulletins, and other materials consistent with customary standards of university publication, subject to the maintenance and respect for confidentiality of client proprietary information;
- (9) Organize, sponsor, and participate in conferences, workshops, seminars, and other educational activities relating to the formation and financial viability of businesses that use university research products or university personnel;
- (10) Provide and pay for advisory or consulting services and technical, managerial, and marketing assistance, support, and promotion to carry out the purposes of this subpart;
- (11) Acquire, hold, and sell qualified securities;
- (12) Consent, subject to the provisions of any contract with noteholders or bondholders, whenever the university deems it necessary or desirable in the fulfillment of the purposes of this subpart, to the modification, with respect to rate of interest, time of payment of any installment of principal or interest, or any other terms, of any contract or agreement of any kind to which the university is a party;
- (13) With the assistance of an appropriate foundation or development entity, accept donations, grants, bequests, and devises of money, property, service, or other things of value that may be received from the United States or any agency thereof, any governmental agency, or any public or private institution, person, firm, or corporation, to be held, used, or applied for any or all of the purposes in support of this program;
- (14) Invest any funds held in reserves or sinking funds, or any funds not required for immediate disbursement, in such investments as may be lawful for fiduciaries in the State;
- (15) Acquire real property, or an interest therein, by purchase or foreclosure, where that acquisition is necessary or appropriate to protect or secure any investment or loan in which the university has an interest; sell, transfer, and convey the property to a buyer and, if the sale, transfer, or conveyance cannot be effected with reasonable promptness or at a reasonable price, to lease the property;
- (16) Consistent with the purposes of the program, acquire, own, hold, dispose of, and encumber personal property of any nature, or any interest therein, either directly or through intermediate entities formed or established specifically for the program’s purposes;
- (17) Enter into agreements or other transactions with any federal, state, or county agency to implement the purposes of this subpart;
- (18) Contract with other entities, public or private, for the provision of all or a portion of the services necessary for the management and operation of the program. The university may use all appropriations, grants, contractual reimbursements, and all other funds made available for the purposes of the program to pay for the proper general expenses of the program;
- (19) Appear on its own behalf before state, county, or federal agencies on matters relating to the program;

- (20) Establish a risk management program appropriate to the activities of the program, which may include, among other components, the purchase of insurance, participation in the State's risk management program, or retention and management of risks;
- (21) Appoint advisory committees as deemed necessary; and
- (22) Exercise any other powers of a corporation organized under the laws of the State not inconsistent with the purpose and intent of the program.

§304A- University innovation and commercialization initiative special fund. (a) There is established the university innovation and commercialization initiative special fund into which shall be deposited, and shall not be considered part of the general fund, all funds consistent with the purposes of this subpart that are:

- (1) Appropriated by the legislature;
- (2) Received as repayments of loans;
- (3) Earned on investments;
- (4) Received pursuant to a venture agreement;
- (5) Received as royalties;
- (6) Received as premiums or fees charged by the university; or
- (7) Otherwise received by the program.

(b) Revenues deposited into the special fund may be expended by the University of Hawaii for all costs and expenses associated with the operation of the innovation and commercialization initiative program without regard to chapters 76, 78, 89, 102, 103, and 103D. 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.

§304A- Confidentiality of trade secrets; disclosure of financial information. Any documents or data made or received by the University of Hawaii under this subpart, to the extent that the material or data consist of trade secrets or confidential commercial or financial information that may be withheld from public disclosure under chapter 92F, shall not be publicly disclosed; provided that if the university purchases a qualified security, the nonconfidential commercial and financial information regarding that security shall be a public record of the university. The board of regents, or any subcommittee of the board, may hold an executive session as provided in section 92-4 to discuss trade secrets or confidential commercial or financial information that may be withheld under chapter 92F.

§304A- Limitation on liability. (a) The University of Hawaii shall not assume or otherwise promise to answer for the debt, contract, or liability of any other person or private entity involved with the innovation and commercialization initiative program.

(b) Notwithstanding chapters 661 and 662, or any other law to the contrary, nothing in this subpart shall create an obligation, debt, claim, cause of action, claim for relief, charge, or any other liability of any kind whatsoever in favor of any person or entity, without regard to whether that person or entity receives any benefits under this subpart, against the State or its officers and employees. The State and its officers and employees shall not be liable for the results of any investment, purchase of securities, loan, or other assistance provided pursuant to this subpart. Nothing in this subpart shall be construed as authorizing any claim against the University of Hawaii in excess of any note, loan, or other specific indebtedness incurred by the university or in excess of any insurance policy acquired for the university or its employees.

§304A- Preservation of governmental immunity; full faith and credit. No contract, agreement, or statement made by the University of Hawaii pursuant to this subpart shall constitute an express or implied waiver by the university of its governmental or sovereign immunity as a public agency of the State, nor shall the contracts, agreements, or statements constitute an express or implied acceptance of liabilities in

excess of liabilities allowable under applicable governmental immunity laws. No activity conducted by the university or agreement entered into pursuant to this subpart shall be deemed a pledge of the full faith and credit of the State.

§304A- Cooperation with the University of Hawaii by state agencies. Every state agency may render services to the University of Hawaii upon the university's request for any purpose related to this subpart.

§304A- Construction of subpart. (a) Other state laws, including without limitation the state code of ethics, shall be applied and construed on balance in recognition of the public benefits created and state interests advanced by the activities conducted by the University of Hawaii pursuant to this subpart.

(b) Notwithstanding subsection (a), the University of Hawaii shall not sponsor, enter into, or continue to engage in activities conducted pursuant to this subpart with a private person in which an employee of the University of Hawaii has a conflict of interest as provided in section 84-14, including a financial interest, irrespective of whether the State benefits from the activities; provided that the prohibition under this subsection shall not apply if:

- (1) The activities with the private person transform the products of the University of Hawaii's research and instructional activities into viable economic enterprises;
- (2) The State stands to benefit from the activities with the private person;
- (3) The activities with the private person comply with the regulatory framework and research compliance program and policies approved by the board of regents of the University of Hawaii;
- (4) The employee's conflict of interest is disclosed at the time of the proposal, and the proposals and binding agreements for each of the activities with the private person are reviewed by the state ethics commission to assure compliance with ethics laws;
- (5) Any changes to the terms and conditions of the activities are reported to the state ethics commission;
- (6) The employee with the conflict of interest does not:
 - (A) Take official action affecting the activities with the private person; or
 - (B) Directly or indirectly supervise an employee who takes official action affecting the activities with the private person; and
- (7) During the term of the activities with the private person, the following employees file annually with the state ethics commission a disclosure of financial interests pursuant to section 84-17:
 - (A) Employees who have a conflict of interest as provided in section 84-14, including a financial interest, in the private person;
 - (B) Employees who takes official action affecting the activities with the private person; and
 - (C) Employees who directly or indirectly supervise an employee who takes official action affecting the activities with the private person.

(c) Notwithstanding subsection (a), any activities conducted by the University of Hawaii pursuant to this subpart in violation of subsection (b) is voidable under section 84-16; provided that this subsection and subsection (b) shall not apply to contracts entered into or extended by the University of Hawaii prior to January 1, 2022, for activities conducted by the University of Hawaii pursuant to this subpart.

(d) The University of Hawaii shall file annually with the state ethics commission a disclosure, including its conflict of interest management plan, of any conflict of interest of any employee relating to its activities conducted pursuant to this subpart.

(e) As used in this section, "person" means any individual, firm, association, organization, sole proprietorship, partnership, company, corporation, joint venture, trust, or any other form of business or legal entity or group of individuals.

§304A- Biennial report. No later than twenty days prior to the convening of the regular session of each odd-numbered year, the University of Hawaii shall submit a report to the legislature concerning:

- (1) All funds deposited into the university innovation and commercialization initiative special fund and a detailed description of the use of those funds;
- (2) Coordinated efforts between the innovation and commercialization initiative program and other state agencies, including the Hawaii technology development corporation, the Hawaii strategic development corporation, and the Hawaii state energy office, to move the State's innovation goals forward, and to more efficiently and effectively utilize resources to achieve these outcomes; and
- (3) A disclosure, including its conflict of interest management plan, of all conflicts of interest of any employee relating to its activities conducted pursuant to this subpart."

PART V

SECTION 11. The legislature finds that on June 30, 2021, the provisions of Act 42, Session Laws of Hawaii 2018, were repealed. The purpose of this part is to temporarily reenact provisions amended by Act 42, Session Laws of Hawaii 2018, for the purpose of extending, for three years, the authority of the president of the University of Hawaii to act as the University of Hawaii's chief procurement officer for all procurement contracts under chapter 103D, Hawaii Revised Statutes.

SECTION 12. Section 103D-203, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) The chief procurement officer for each of the following state entities shall be:

- (1) The judiciary--the administrative director of the courts;
- (2) The senate--the president of the senate;
- (3) The house of representatives--the speaker of the house of representatives;
- (4) The office of Hawaiian affairs--the chairperson of the board;
- (5) The University of Hawaii--the president of the University of Hawaii; ~~[provided that, except as specified in section 304A-2672(2), for contracts for construction and professional services furnished by licensees under chapter 464, the administrator of the state procurement office of the department of accounting and general services shall serve as the chief procurement officer;]~~
- (6) The department of education, excluding the Hawaii public library system--the superintendent of education;
- (7) The Hawaii health systems corporation--the chief executive officer of the Hawaii health systems corporation; and
- (8) The remaining departments of the executive branch of the State and all governmental bodies administratively attached to them--the administrator of the state procurement office of the department of accounting and general services."

SECTION 13. Section 304A-2672, Hawaii Revised Statutes, is amended to read as follows:

"**§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."

SECTION 14. The University of Hawaii shall submit an annual report to the legislature detailing a list of all capital improvement projects approved by the board of regents, prioritized by each campus, no later than twenty days prior to the convening of each regular session.

PART VI

SECTION 15. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 16. This Act shall take effect upon its approval; provided that:

- (1) Parts IV and V of this Act shall apply retroactively to any actions taken after June 30, 2021, by the University of Hawaii pursuant to the sections of law amended by those parts;
- (2) Section 10 shall be repealed on June 30, 2024; and
- (3) Sections 12, 13, and 14 shall be repealed on June 30, 2024, and sections 103D-203(a) and 304A-2672, Hawaii Revised Statutes, shall be reenacted in the form in which they read on June 11, 2018.

Senator Kim moved that Floor Amendment No. 3 be adopted, seconded by Senator Dela Cruz.

Senator Kim rose to speak in support of the amendment as follows:

"Mr. President, Senate Bill 589 is Relating to the University of Hawaii, and the basic objections from the governor was with parts III and IV of the bill, having to do with the technology transfer measures. He was concerned about any measures going forward that were already agreed to—that by these changes, it would affect those contracts. However, the Constitution of the

United States states that there can be no new laws or changes to any contracts that are already in progress, so it was already built in. However, we did put that language into this measure to make it clear that any current contracts will not be affected by this measure. Also put in measures that, if there are conflicts of interest, that those will be reported or disclosed; disclosures will be made to the Ethics Commission and that they will review those measures. As far as part I, which has to do with the cancer center, we made some changes to the reporting and how the selection of the director of the cancer center would be made, and that is in accordance to the policies of the regents of the University of Hawai'i, and we did take out the restriction on how tuition funds would be used. Other technical amendments in the dates also were made, and because of the drop-dead clause, the measure actually died on June 30th. We had to put into this new floor amendment the entire statute so that we could re-enable the statute and then make the extensions, so those are the changes. Thank you."

The Chair extended his thanks to the Chair of the Committee on Higher Education for her work on the measure as well as to the Chair of the Committee on Ways and Means for his efforts on the previous two amended measures.

The motion to adopt Floor Amendment No. 3 was put by the Chair and carried.

By unanimous consent, S.B. No. 589, S.D. 2, H.D. 2, C.D. 1, A.D. 1, entitled: "A BILL FOR AN ACT RELATING TO THE UNIVERSITY OF HAWAII," was placed on the calendar for Final Reading on Thursday, July 8, 2021.

At 2:51 p.m., the Senate stood in recess subject to the call of the Chair.

The Senate reconvened at 2:52 p.m.

MOTIONS TO OVERRIDE VETOES

H.B. No. 53, S.D. 1, C.D. 1:

The Chair announced:

"If there are no objections, we will be taking the veto overrides—at least the first several—on consent. When we get to House Bill 862, we'll take it on Roll Call. Please speak into your microphones."

By unanimous consent, H.B. No. 53, S.D. 1, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO STATE BONDS," was deferred until Thursday, July 8, 2021.

S.B. No. 263, S.D. 2, H.D. 2, C.D. 1:

In accordance with Article III, Section 17 of the Hawai'i State Constitution, Senator Kanuha moved that the Senate override the veto of S.B. No. 263, S.D. 2, H.D. 2, C.D. 1, as contained in Gov. Msg. No. 1295, seconded by Senator DeCoite.

The motion was put by the Chair and carried, the veto of S.B. No. 263, S.D. 2, H.D. 2, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO ECONOMIC DEVELOPMENT;" was overridden by not less than two-thirds vote of all members to which the Senate is entitled, on the following showing of Ayes and Noes:

Ayes, 23; Ayes with Reservations (Fevella). Noes, 2 (Acasio, Ihara).

S.B. No. 404, H.D. 2, C.D. 1:

In accordance with Article III, Section 17 of the Hawai'i State Constitution, Senator Kanuha moved that the Senate override the veto of S.B. No. 404, H.D. 2, C.D. 1, as contained in Gov. Msg. No. 1296, seconded by Senator DeCoite.

Senator Ihara rose to speak in opposition to the motion to override the veto as follows:

"Mr. President, I have a disagreement on this policy as a substantive policy, and I want to highlight the reason why that gets amplified for my opposition. That has to do with the process by which this bill was considered. This bill was considered and is a Campaign Spending Commission administrative proposal that would have made a number of fixes—I think good fixes—to the campaign electioneering communications statute, which had been cumbersome and had some problems. In the process of this bill, the Senate had a hearing and the House had two hearings, and after the last hearing in the legislative process, the House judiciary committee made a major amendment, and that amendment basically eliminated all except the first report of noncandidate committees to report their electioneering communications. The statute remained that noncandidate committees would have to report their initial electioneering communication report after they hit \$1,000, but, after that, they do not have to report at all, and then as to candidates and candidate committees, those two are excluded and exempted from the statute entirely.

"I want to level some criticism to myself for having missed this and to the good-government groups that all missed it as well, as well as the media missed this about-face change in policy, from making it more transparent to make it harder for the public to know what electioneering materials go out. And from the time that the judiciary committee made the amendment, I did not catch it. I don't think any of us—maybe you did. I think one senator did; I think Senator Acasio caught it, but all the other—even good government groups, media, we all missed it, so I voted not knowing that this bill would diminish significantly, in my view, the level of transparency for campaign communications, and for that, I take responsibility. Once I found out about this, I asked the governor to veto it. This is the first bill I recall that I ever voted on a mistaken belief on the core issue at hand. So I wanted to acknowledge my error in missing this information and it's, I think, maybe too late, but I do want to be on the record that I believe that this is not a policy that we should adopt, and I will vote against a motion to override. Thank you."

The motion was put by the Chair and carried, the veto of S.B. No. 404, H.D. 2, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO ELECTIONEERING COMMUNICATIONS," was overridden by not less than two-thirds vote of all members to which the Senate is entitled, on the following showing of Ayes and Noes:

Ayes, 20; Ayes with Reservations (Misalucha). Noes, 5 (Acasio, Fevella, Ihara, Inouye, Moriwaki).

S.B. No. 811, H.D. 1, C.D. 1:

In accordance with Article III, Section 17 of the Hawai'i State Constitution, Senator Kanuha moved that the Senate override the veto of S.B. No. 811, H.D. 1, C.D. 1, as contained in Gov. Msg. No. 1300, seconded by Senator DeCoite.

Senator Fevella spoke in opposition to the motion to override the veto as follows:

"As we move forward into the new year with a new superintendent and transparency from DOE, a weekly positive COVID report to be sent by schools will be hard on them, especially if schools don't have enough staffing. I'm concerned our public schools in certain districts will reveal a person's name in a positive case and create a negative impact on the individual. Now that people are getting vaccinated, I really don't think it would make a difference to push schools to do the reporting. I understand the reason for this bill, but a lot have changed over the last few months. With a different superintendent and leaders who we know we can trust, we can

and will have better transparency. I cannot support going forward with schools obligated to make these kinds of reports to the DOE on a weekly basis, so I'm going to be in opposition of the override."

Senator Kidani spoke in support of the motion to override the veto as follows:

"I would like to let the body know that this bill was put forth with much thought, and without the public knowing what schools are impacted, how can they know that their community is safe? How can they know that their children are safe? This is not going to be any extra work because the schools are already making these reports. I just think that, in the awareness of safety and for all of us, we need to know where the cases are to help us be aware and to know that our children are safe and our community's safe. Thank you, Mr. President."

The motion was put by the Chair and carried, the veto of S.B. No. 811, H.D. 1, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO THE DEPARTMENT OF EDUCATION," was overridden by not less than two-thirds vote of all members to which the Senate is entitled, on the following showing of Ayes and Noes:

Ayes, 22; Ayes with Reservations (Ihara). Noes, 3 (Acasio, Fevella, Riviere).

S.B. No. 1387, S.D. 1, H.D. 2, C.D. 1:

In accordance with Article III, Section 17 of the Hawai'i State Constitution, Senator Kanuha moved that the Senate override the veto of S.B. No. 1387, S.D. 1, H.D. 2, C.D. 1, as contained in Gov. Msg. No. 1301, seconded by Senator DeCoite.

The motion was put by the Chair and carried, the veto of S.B. No. 1387, S.D. 1, H.D. 2, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO MICROCHIP IDENTIFICATION," was overridden by not less than two-thirds vote of all members to which the Senate is entitled, on the following showing of Ayes and Noes:

Ayes, 25; Ayes with Reservations (Fevella, Ihara). Noes, none.

H.B. No. 862, H.D. 2, S.D. 2, C.D. 1:

In accordance with Article III, Section 17 of the Hawai'i State Constitution, Senator Kanuha moved that the Senate override the veto of H.B. No. 862, H.D. 2, S.D. 2, C.D. 1, as contained in Gov. Msg. No. 1288, seconded by Senator DeCoite.

Senator Chang requested that remarks in opposition to the motion to override the veto be entered into the Journal, and the Chair so ordered.

The Chair having so ordered, Senator Chang's remarks read as follows:

"I oppose the override of Governor Ige's veto of this bill. HB862 punishes the HTA for its success, hobbles the State's recovery from the pandemic, and prevents the agency from truly addressing legitimate resident concerns about tourism management.

"In 1998, our State created the Hawaii Tourism Authority (HTA) to reverse losses in the tourism industry due to the effects of the Japanese Lost Decade. It worked.

"Today, the HTA is an organization that supports the employment of 200,000 people, distributes millions of dollars to dozens of local community projects for sustainable tourism, and produces twenty dollars for every dollar given to it. HTA has

successfully accomplished its mandate and is a productive organization for our State.

"The Senate Committee on Energy, Economic Development, and Tourism asserted on January 4th 2021, that 'HTA is the fulcrum that will catapult Hawaii out of its financial misery.' Why have we decided to maim this vital organization?

"HB862 cripples the HTA in four ways: 1) it removes the agency's ability to negotiate its own multi-year contracts by removing the procurement exemption, 2) it forces HTA to rely on the general fund for yearly operations, 3) it removes HTA's authority to conduct market research, and 4) it limits HTA in transitioning our visitor industry into a sustainable model.

"On the first and second point, there are too many competitors for funding and services, and far too little of either. By forcing HTA to go to the State for approval for multi-year contracts and for annual funding, we will slow HTA's ability to react to new developments in tourism and prevent HTA from creating predictable timetables to accomplish its goals.

"The 1998 framers of the HTA foresaw the danger of politics disrupting the efficiency of the HTA. This was why HTA had the discretion to negotiate without interference from the State and why they had a steady funding stream from the Transient Accommodations Tax. None of those political risks have diminished; in fact, political interference has intensified.

"On the third point, HTA is a reliable authority for the latest data regarding tourism. Hotels, local businesses, and communities from across the islands have relied on HTA's research for years to shape their decisions in tourism management. And now, the State is preventing the HTA from continuing this important work and threatens to confuse the industries that rely on this data.

"On the fourth point, and the most pressing issue: HB862 will limit the ability for HTA to transition our visitor industry to a sustainable model. The HTA of today is different from the one in 1998. In recent years, there has been a shift towards supporting local community projects and drawing input from local community leaders to better manage Hawaii's natural and cultural resources.

"There are many local programs that have benefited from HTA. For example, the Pololu Trail Steward Program funded local stewards to educate tourists of the cultural importance of the Pololu area. The County of Kauai testified in support of HTA because of its work in supporting over 30 community programs. The Hawaii Forest Industry Association relies on HTA for grants to restore forests and to educate our keiki.

"The list goes on. Anyone curious to all the local programs helped by HTA can look at this bill's nearly 300 page testimony.

"Supporters of this bill will point to this year's influx of US mainland tourists and the growing public opposition to over-crowded tourist attractions. These are real concerns that I share. This Legislature should take steps to mitigate the damaging effects of tourism. In response to these concerns, HTA has recently shifted its focus to tourism management, building upon past successes like the Haena State Park parking management program. It needs more time for these projects and plans to come to fruition. This uncertainty that this bill introduces will hamper its efforts to do so.

"I oppose overriding Governor Ige's veto of HB862."

Senator Moriwaki rose to request that remarks in support of the motion to override the veto with reservations be entered into the Journal, and the Chair so ordered.

The Chair having so ordered, Senator Moriwaki's remarks read as follows:

"Tourism is our state's foundational industry. We found its importance to our economy underscored when the pandemic closed off Pan Pacific travel. Nevertheless, I rise to vote with reservations to override HB862, CD1.

"This body's support for the industry created the Hawaii Tourism Authority (HTA) over 20 years ago and provided the HTA with a dedicated source of funding through the Transient Accommodation Tax. HB862 recognizes that each county is different with its own challenges. Each should be authorized to tax transient accommodations in line with tourism's impact on the county. The county tax of up to three percent, however, should not be an additional tax on our visitors. Raising the total tax on tourists could cripple our visitor industry at the very time when we should be supporting its recovery.

"This bill supports the redirection of HTA. We established the agency to implement a marketing plan to attract visitors by branding Hawaii's uniqueness. HTA attracted so well that by 2019, with 10.4 million visitors, it had far exceeded the 6.5 million total when the TAT was created. But tourism revenues declined from \$18.3 billion (in real dollars) in 1989 to \$17.75 billion in 2019.

"Furthermore, with the absence of tourists during the pandemic driving home tourism's adverse impacts on our community, including traffic congestion, overcrowding, and natural resource degradation, resident complaints have exploded. From its own surveys, HTA now knows that it must not only promote and market tourism, but also manage and sustain a quality destination for tourists and residents alike.

"I support HB862, CD1, because it is the only source of \$60 million to fund HTA. From now on, HTA projects should meet the goal of managing tourism, including sustaining Hawaii's cultural and natural resources. The changed source of funding should lead to greater transparency and accountability to the legislature, the industry and the community.

"The government operations committee, which I chair, seeks to have all agencies, including HTA, use public dollars wisely to meet agency missions and goals. State audits in the past have questioned HTA management and internal controls. HTA's special fund exemptions from procurement laws have hindered its transparency and accountability in meeting its mission.

"Once HTA develops a tourism destination management plan for the state — and uses its budget to execute that plan effectively — it may gain more funding. HB862 is 'tough love,' directing HTA to show the legislature, residents and the industry that it is building a healthy visitor destination for both tourists and residents."

Senator Misalucha spoke in strong support of the motion to override the veto as follows:

"I think what is not debatable is this: We all love this island we call home, and we would like to continue to share its grandeur and beauty with the rest of the world, but it needs to be done in appropriate ways using effective tools, ensuring that the funds dedicated toward its purposes are spent wisely and effectively. In my experience as vice chair of Energy, Economic Development, and Tourism, I saw a sincere acknowledgement from my colleagues of the importance of tourism as a major economic driver for our state, and, as such, we are mindful that the industry needs to continue to be supported.

"With this veto, though, I'd like to cite the main reasons why I voted for the bill in the first place and now will vote to seek an override of the veto. Number one: the transparency and effectiveness of the Hawai'i Tourism Authority in handling the

issues related to the pandemic. I was privy to meetings where data was not provided despite repeated requests. I found that management decisions were slow amidst a crisis and might have led to unnecessary waste of government resources.

Because we're all in this crisis together, I support the notion that special funds should not be held sacred for just one industry alone. As such, the Ways and Means committee made a concerted effort to make sure that all these special funds are brought into the general fund; this includes the TAT. This would provide the Legislature the ability to manage the coffers and ensure parity in the distribution of required resources.

"Third, every year, every state agency is required to validate its budget and to present its plans and, along with it, its financial objectives to support these plans. It is part of the check and balances in state government. Since its inception, HTA has been exempted from this scrutiny. However, based on past performance for the past few years, HTA will need now to convince the Legislature that it is deserving of this autonomy. It will require HTA to be more forthcoming with its strategic plans and force greater communication between HTA and the Legislature.

"Last but not least, much has been said about the reduced funding for HTA. From \$79 million, it is now \$60 million. But the Legislature is not micromanaging how those funds will be spent. However, considering the fact that a lot of our residents are now less supportive of tourism, it may be prudent for HTA to focus its attention on resource management, tourism management, rather than just marketing to tourists. This means funding to more community-based nonprofit organizations, including VASH.

"At the end of the day, we would like to support HTA and be their partners toward a good tourism platform. This can be possible with greater transparency and accountability, so I urge my colleagues to vote for an override of the veto."

Senator Shimabukuro spoke in support of the motion to override the veto as follows:

"I'd like to adopt the words of the previous speaker as if they were my own. Thank you." (The Chair so ordered, by reference only.)

Senator Acasio rose to speak in opposition to the motion to override the veto as follows:

"So I just wanted to address the process in which this bill has come about, just for those who may be watching who didn't necessarily follow the timeline of this particular bill. Originally, it was one line, and it was to abolish the Office of Aerospace, 'oia wale no, and then it ballooned, at one point, at the very end of our session, right before the last hearing in the Senate side, and it became, at some point, 58 pages long with multiple parts, and the title is 'Relating to State Government,' which is very broad and, therefore, anything within its body can relate to 'Relating to State Government.' Therefore, it became what I call a Frankenstein bill, and in the honor of transparency in our democracy and our government and speaking for the people, this would not be okay with me if I were back home as a constituent because there was very little time for any public comment from those who are affected within the bill, like the counties, HTA, PISCES, et cetera, because of the last-minute nature. This particular bill has caused a lot of conversation within the media, within conversations among colleagues, and within the community and amongst, of course, the counties because it removes the TAT from the county.

"There are parts to the bill that I would vote for if they were separate. I also agree with parts of what the previous speaker had mentioned about understanding that we need to look at our tourism and the dedicated funding and how much and what it's

used for, et cetera. I would actually likely be in favor of certain parts, but because of the nature and because it's a conglomerate of so many things, and if certain parts are a definite 'no' and certain parts are a 'maybe' or a 'yes,' how can I conceivably vote in favor of the bill? That is why, originally, I was in opposition. So I just wanted to clarify for those who are watching, for the press, for everybody to understand that if it was a little bit more straightforward—actually, if it was a lot more straightforward—there would be, in my opinion, more integrity, so mahalo for allowing me to speak, and I vote in opposition.”

The motion was put by the Chair and carried, Roll Call vote having been requested, the veto of H.B. No. 862, H.D. 2, S.D. 2, C.D. 1, entitled: “A BILL FOR AN ACT RELATING TO STATE GOVERNMENT,” was overridden by not less than two-thirds vote of all members to which the Senate is entitled, on the following showing of Ayes and Noes:

Ayes, 17; Ayes with Reservations (Moriwaki). Noes, 8 (Acasio, Baker, Chang, DeCoite, Fevella, Ihara, Inouye, Taniguchi).

At this time, the Chair made the following announcement:

“A revised list of Senate leadership and standing committee assignments was distributed to all offices on July 2, 2021. The Clerk is directed to place the same in the Journal.”

The Chair having so ordered, the list of Senate leadership and committee assignments reads as follows:

Majority Leader:

Senator Dru Mamo Kanuha

Majority Policy Leader:

Senator Les Ihara, Jr.

Majority Floor Leader:

Senator Lynn DeCoite

Majority Whip:

Senator Lorraine R. Inouye

Assistant Majority Whip:

Senator Gilbert S.C. Keith-Agaran

Assistant Majority Whip:

Senator Jarrett Keohokalole

Assistant Majority Whip:

Senator Clarence K. Nishihara

Assistant Majority Whip:

Senator Brian T. Taniguchi

Minority Leader/Floor Leader:

Senator Kurt Fevella

AGRICULTURE AND ENVIRONMENT

Senator Mike Gabbard, Chair
 Senator Clarence K. Nishihara, Vice Chair
 Senator Laura Acasio
 Senator Karl Rhoads
 Senator Kurt Fevella

COMMERCE AND CONSUMER PROTECTION

Senator Rosalyn H. Baker, Chair
 Senator Stanley Chang, Vice Chair
 Senator Lynn DeCoite
 Senator Clarence K. Nishihara
 Senator Gil Riviere
 Senator Joy A. San Buenaventura
 Senator Kurt Fevella

EDUCATION

Senator Michelle N. Kidani, Chair
 Senator Donna Mercado Kim, Vice Chair
 Senator Donovan M. Dela Cruz
 Senator Dru Mamo Kanuha
 Senator Kurt Fevella

ENERGY, ECONOMIC DEVELOPMENT, AND TOURISM

Senator Glenn Wakai, Chair
 Senator Bennette E. Misalucha, Vice Chair
 Senator Chris Lee
 Senator Gil Riviere
 Senator Kurt Fevella

GOVERNMENT OPERATIONS

Senator Sharon Y. Moriwaki, Chair
 Senator Donovan M. Dela Cruz, Vice Chair
 Senator Stanley Chang
 Senator Mike Gabbard
 Senator Kurt Fevella

HAWAIIAN AFFAIRS

Senator Maile S.L. Shimabukuro, Chair
 Senator Jarrett Keohokalole, Vice Chair
 Senator Laura Acasio
 Senator Les Ihara, Jr.
 Senator Kurt Fevella

HEALTH

Senator Jarrett Keohokalole, Chair
 Senator Rosalyn H. Baker, Vice Chair
 Senator Sharon Y. Moriwaki
 Senator Joy A. San Buenaventura
 Senator Kurt Fevella

HIGHER EDUCATION

Senator Donna Mercado Kim, Chair
 Senator Michelle N. Kidani, Vice Chair
 Senator Gilbert S.C. Keith-Agaran
 Senator Glenn Wakai
 Senator Kurt Fevella

HOUSING

Senator Stanley Chang, Chair
 Senator Dru Mamo Kanuha, Vice Chair
 Senator Sharon Y. Moriwaki
 Senator Karl Rhoads
 Senator Kurt Fevella

HUMAN SERVICES

Senator Joy A. San Buenaventura, Chair
 Senator Les Ihara, Jr., Vice Chair
 Senator Laura Acasio
 Senator Bennette E. Misalucha
 Senator Kurt Fevella

JUDICIARY

Senator Karl Rhoads, Chair
 Senator Jarrett Keohokalole, Vice Chair
 Senator Laura Acasio
 Senator Mike Gabbard
 Senator Donna Mercado Kim
 Senator Chris Lee
 Senator Kurt Fevella

LABOR, CULTURE AND THE ARTS

Senator Brian T. Taniguchi, Chair
 Senator Les Ihara, Jr., Vice Chair

Senator Stanley Chang
Senator Jarrett Keohokalole
Senator Kurt Fevella

PUBLIC SAFETY, INTERGOVERNMENTAL, AND
MILITARY AFFAIRS

Senator Clarence K. Nishihara, Chair
Senator Lynn DeCoite, Vice Chair
Senator Rosalyn H. Baker
Senator Gil Riviere
Senator Kurt Fevella

TRANSPORTATION

Senator Chris Lee, Chair
Senator Lorraine R. Inouye, Vice Chair
Senator Lynn DeCoite
Senator Maile S.L. Shimabukuro
Senator Kurt Fevella

WATER AND LAND

Senator Lorraine R. Inouye, Chair
Senator Gilbert S.C. Keith-Agaran, Vice Chair
Senator Bennette E. Misalucha
Senator Gil Riviere
Senator Kurt Fevella

WAYS AND MEANS

Senator Donovan M. Dela Cruz, Chair
Senator Gilbert S.C. Keith-Agaran, Vice Chair
Senator Lorraine R. Inouye
Senator Dru Mamo Kanuha
Senator Michelle N. Kidani
Senator Bennette E. Misalucha
Senator Sharon Y. Moriwaki
Senator Maile S.L. Shimabukuro
Senator Brian T. Taniguchi
Senator Glenn Wakai
Senator Kurt Fevella

The Chair continued with the following remarks:

“Senate Bill 1350 was amended in Ways and Means to deal with reapportionment. It went over to the House and, on the floor of the House, it was deleted, and the language to defer the pay raises for the Judiciary, executives, and the Legislature was inserted. It came back over and it went to conference, where we reinserted the language for reapportionment. And so I don’t know of a bill that was more egregiously amended when it wasn’t even done in the committees but on the floor of one of the chambers, and it passed unanimously in this chamber and without much comment from the press at that time, but I guess it’s okay if it defers our salaries and the ends justify the means. And so I understand and appreciate your concerns, Senator Acasio, but I want to point out that there was more than one bill that went through this process and was amended in ways that maybe were not the usual ways, but found their way to the end of the session.”

ADJOURNMENT

At 3:16 p.m., on motion by Senator DeCoite, seconded by Senator Fevella and carried, the Senate adjourned until 3:00 p.m., Thursday, July 8, 2021.

SECOND DAY

Thursday, July 8, 2021

The Senate of the Thirty-First Legislature of the State of Hawai'i, Special Session of 2021, convened at 3:00 p.m. with the President in the Chair.

The Roll was called showing all Senators present, with Senators Chang, Dela Cruz, Gabbard, Inouye, Keith-Agaran, Lee, Misalucha, Moriwaki, Riviere, and Shimabukuro present and participating via videoconference.

The President announced that he had read and approved the Journal of the First Day.

HOUSE COMMUNICATIONS

The following communications from the House (Hse. Com. Nos. 1 and 2) were read by the Clerk and were placed on file:

Hse. Com. No. 1, returning S.C.R. No. 1, which was adopted by the House of Representatives on July 6, 2021.

Hse. Com. No. 2, informing the Senate that on July 6, 2021, the House reconsidered the following House and Senate bills, heretofore vetoed as set forth in Governor's Messages dated July 6, 2021, and approved said bills by an affirmative vote of two-thirds of all members to which the House of Representatives of the Third-First Legislature of the State of Hawai'i is entitled:

H.B. No. 338, H.D. 1, S.D. 1;
H.B. No. 862, H.D. 2, S.D. 2, C.D. 1;
S.B. No. 263, S.D. 2, H.D. 2, C.D. 1;
S.B. No. 404, H.D. 2, C.D. 1;
S.B. No. 639, S.D. 1, H.D. 1, C.D. 1;
S.B. No. 807, S.D. 2, H.D. 2, C.D. 1;
S.B. No. 811, H.D. 1, C.D. 1; and
S.B. No. 1387, S.D. 1, H.D. 2, C.D. 1.

ORDER OF THE DAY

MOTION TO OVERRIDE VETO

MATTER DEFERRED FROM
TUESDAY, JULY 6, 2021

H.B. No. 53, S.D. 1, C.D. 1:

By unanimous consent, action on H.B. No. 53, S.D. 1, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO STATE BONDS," was deferred until the end of the calendar.

FINAL READING

H.B. No. 54, H.D. 1, S.D. 1, C.D. 1, A.D. 1:

On motion by Senator Dela Cruz, seconded by Senator Keith-Agaran and carried, H.B. No. 54, H.D. 1, S.D. 1, C.D. 1, A.D. 1, entitled: "A BILL FOR AN ACT RELATING TO THE STATE BUDGET," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

H.B. No. 1299, H.D. 1, S.D. 1, C.D. 1, A.D. 1:

On motion by Senator Dela Cruz, seconded by Senator Keith-Agaran and carried, H.B. No. 1299, H.D. 1, S.D. 1, C.D. 1, A.D. 1, entitled: "A BILL FOR AN ACT RELATING TO NON-GENERAL FUNDS," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

S.B. No. 589, S.D. 2, H.D. 2, C.D. 1, A.D. 1:

On motion by Senator Kim, seconded by Senator Dela Cruz and carried, S.B. No. 589, S.D. 2, H.D. 2, C.D. 1, A.D. 1, entitled: "A BILL FOR AN ACT RELATING TO THE UNIVERSITY OF HAWAII," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

At this time, the Chair stated:

"As discussed on Tuesday, we will now recess and transmit House Bill 54 to the Governor for his signature. When we are informed that it is signed, we will reconvene for the purpose of overriding H.B. 53; H.B. 54 is the corrections to fix H.B. 53."

At 3:04 p.m., the Senate stood in recess subject to the call of the Chair.

The Senate reconvened at 3:10 p.m.

At this time, the Chair made the following statement:

"We don't have the signed House Bill 54 yet, but the Clerk reminded me after we were reminded by Senator Kim on Tuesday that we have a new member in the Senate, and in 2014, commemorating the 55th anniversary of statehood and the Hawai'i State Senate, Senator Kim, who was president at the time, created a Senate pin that is awarded to each individual who served in the Hawai'i State Senate, and they get the pin for life, and it's an acknowledgment of your service to the State of Hawai'i.

"So, at this time, we'd like to take a moment to make a special presentation to our newest member, and we present a very special lapel pin to current and past senators. This pin is a symbol of our service in the Senate and to the people of the State of Hawai'i. Under Rule 92, the Senate pin shall only be worn by current or past members of this body. At this time, I'd like to invite Senator DeCoite to come to the rostrum to receive her Senate pin."

Senator DeCoite then proceeded to the rostrum, where she was presented with the Senate pin by Senate President Kouchi.

The Chair then made the following comments:

"On Tuesday, in the heat of the moment, in trying to express myself on an issue at the end of session, I mentioned Senator Acasio by name. When we adjourned, she came up to see me with several members, pointed out the comments that I had made, and, certainly by mentioning her name on this floor, that I erred in what I said. When they pointed this out to me, I certainly agreed with them and personally apologized to her then, but my comments were made publicly and the apology was privately, and you deserve an apology from the rostrum, where I made the comments, so, Senator Acasio, again, I apologize for the way I expressed myself. That wasn't the appropriate way to get my message across, and I'm very sorry for that."

At 3:13 p.m., the Senate stood in recess subject to the call of the Chair.

The Senate reconvened at 3:38 p.m.

**MOTION TO OVERRIDE VETO
MATTER DEFERRED FROM
EARLIER ON THE CALENDAR**

H.B. No. 53, S.D. 1, C.D. 1:

The Chair announced:

“Members, we received notification that the Governor signed H.B. No. 54, A.D. 1 into law as Act No. 6. Therefore, we will now proceed with the motion to override the Governor’s veto of H.B. No. 53, C.D. 1.”

In accordance with Article III, Section 17 of the Hawai‘i State Constitution, Senator Kanuha moved that the Senate override the veto of H.B. No. 53, S.D. 1, C.D. 1, as contained in Gov. Msg. No. 1277, seconded by Senator DeCoite.

The motion was put by the Chair and carried, the veto of H.B. No. 53, S.D. 1, C.D. 1, entitled: “A BILL FOR AN ACT RELATING TO STATE BONDS,” was overridden by not less than two-thirds vote of all members to which the Senate is entitled, on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

SENATE RESOLUTIONS

The following resolutions (S.R. Nos. 1 and 2) were read by the Clerk and were disposed of as follows:

S.R. No. 1 “SENATE RESOLUTION AUTHORIZING THE PRESIDENT TO APPROVE THE JOURNAL OF THE SENATE ON THIS FINAL DAY OF THE SPECIAL SESSION OF 2021.”

Offered by: Senator Kanuha.

On motion by Senator DeCoite, seconded by Senator Fevella, S.R. No. 1 was adopted.

S.R. No. 2 “SENATE RESOLUTION INFORMING THE HOUSE AND GOVERNOR THAT THE SENATE IS READY TO ADJOURN SINE DIE.”

Offered by: Senator Kanuha.

On motion by Senator DeCoite, seconded by Senator Fevella, S.R. No. 2 was adopted.

ADJOURNMENT

Senator DeCoite moved that the Senate of the Thirty-First Legislature of the State of Hawai‘i, Special Session of 2021, adjourn Sine Die, seconded by Senator Fevella and carried.

At 3:41 p.m., the President rapped his gavel and declared the Senate of the Thirty-First Legislature of the State of Hawai‘i, Special Session of 2021, adjourned Sine Die.

**GOVERNOR'S MESSAGES RECEIVED AFTER THE ADJOURNMENT
OF THE SPECIAL SESSION OF THE LEGISLATURE SINE DIE**

Gov. Msg. No. 1, informing the Senate that on July 8, 2021, the Governor found his objections met and signed into law H.B. No. 54, H.D. 1, S.D. 1, C.D. 1, A.D. 1 as Act 6, entitled: "RELATING TO THE STATE BUDGET."

Gov. Msg. No. 2, informing the Senate that on July 20, 2021, the Governor found his objections met and signed into law S.B. No. 589, S.D. 2, H.D. 2, C.D. 1, A.D. 1 as Act 8, entitled: "RELATING TO THE UNIVERSITY OF HAWAII."

Gov. Msg. No. 3, informing the Senate that on July 20, 2021, the Governor found his objections met and signed into law H.B. No. 1299, H.D. 1, S.D. 1, C.D. 1, A.D. 1 as Act 9, entitled: "RELATING TO NON-GENERAL FUNDS."

**HOUSE COMMUNICATIONS RECEIVED AFTER THE ADJOURNMENT
OF THE SPECIAL SESSION OF THE LEGISLATURE SINE DIE**

Hse. Com. No. 3, informing the Senate that on July 8, 2021, H.B. No. 54, H.D. 1, S.D. 1, C.D. 1, A.D. 1 passed Final Reading in the House of Representatives.

Hse. Com. No. 4, informing the Senate that on July 8, 2021, H.B. No. 1299, H.D. 1, S.D. 1, C.D. 1, A.D. 1 passed Final Reading in the House of Representatives.

Hse. Com. No. 5, informing the Senate that on July 8, 2021, S.B. No. 589, S.D. 2, H.D. 2, C.D. 1, A.D. 1 passed Final Reading in the House of Representatives.

Hse. Com. No. 6, informing the Senate that on July 8, 2021, the House reconsidered H.B. No. 53, S.D. 1, C.D. 1, heretofore vetoed as set forth in a Governor's Message dated July 6, 2021, and approved said bill by an affirmative vote of two-thirds of all members to which the House of Representatives of the Thirty-First Legislature of the State of Hawaii is entitled.

Hse. Com. No. 7, transmitting H.R. No. 3, which was adopted by the House of Representatives on July 8, 2021.

NUMBER AND TITLE	Received Referred	First Reading	Second Reading	Third Reading	Action of House	Conference Committee	Final Action	Action of Governor	Further Action	Act No.	Vetoed
S.B. No. 263 RELATING TO ECONOMIC DEVELOPMENT.					12				7	2	
S.B. No. 404 RELATING TO ELECTIONEERING COMMUNICATIONS.					12				7	3	
S.B. No. 589 RELATING TO THE UNIVERSITY OF HAWAII.					15			14	2, 12	8	
S.B. No. 639 RELATING TO COURTS OF APPEAL.					12						
S.B. No. 807 RELATING TO EDUCATION.					12						
S.B. No. 811 RELATING TO THE DEPARTMENT OF EDUCATION.					12				7	4	
S.B. No. 1387 RELATING TO MICROCHIP IDENTIFICATION.					12				8	5	

NUMBER AND TITLE	Offered Referred	Report of Committee	Adoption	Action of House	Subsequent Action
S.C.R. No. 1 RELATING TO THE RECESS DAY FOR THE SPECIAL SESSION OF 2021.	1		1	1	

NUMBER AND TITLE	Offered	Referred	Report of Committee	Adoption
S.R. No. 1 AUTHORIZING THE PRESIDENT TO APPROVE THE JOURNAL OF THE SENATE ON THIS FINAL DAY OF THE SPECIAL SESSION OF 2021.	13			13
S.R. No. 2 INFORMING THE HOUSE AND GOVERNOR THAT THE SENATE IS READY TO ADJOURN SINE DIE.	13			13

NUMBER AND TITLE	Received Referred	First Reading	Second Reading	Third Reading	Action of House	Conference Committee	Final Action	Action of Governor	Further Action	Act No.	Vetoed
H.B. No. 53 RELATING TO STATE BONDS.					15				7, 12, 13	7	
H.B. No. 54 RELATING TO THE STATE BUDGET.					15			14	1, 12	6	
H.B. No. 338 RELATING TO THE JUDICIARY.					12						
H.B. No. 862 RELATING TO STATE GOVERNMENT.					12				8	1	
H.B. No. 1299 RELATING TO NON-GENERAL FUNDS.					15			14	2, 12	9	