

**DAVID Y. IGE
GOVERNOR**

**Governor Ige releases Intent to Veto List**

June 21, 2021

All measures listed below are subject to veto. Any measures passed by the Hawai‘i State Legislature this session that are not on this list will become law with or without my signature no later than July 6. The measures on the Intent to Veto List are deemed objectionable because of concerns about legality, practicality of implementation and/or lack of transparency.

**UNCONSTITUTIONAL:**

[**HB774 HD1 SD2 CD1**](https://www.capitol.hawaii.gov/measure_indiv.aspx?billtype=HB&billnumber=774&year=2021) **– RELATING TO DEVELOPMENT DISTRICTS**

This bill establishes the Pulehunui community development district to redevelop, renovate, and improve public lands in Pulehunui, Maui, and amends the membership and reassigns certain duties of the Hawai‘i Community Development Authority to the community development district authority boards.

**RATIONALE**: This bill establishes four new boards in violation of the organizational placement requirement of section 6 of article V of the Hawai‘i State Constitution. Section 6 of article V of the Hawai‘i State Constitution requires that boards such as these be allocated to one of the twenty principal state departments. These four new community development district boards were not placed within a principal department of the State.

In addition, this bill was significantly amended coming out of its final committee, which therefore did not allow for public input.

[**HB1299 HD1 SD1 CD1**](https://www.capitol.hawaii.gov/measure_indiv.aspx?billtype=HB&billnumber=1299&year=2021) **– RELATING TO NON-GENERAL FUNDS**

This measure repeals, reclassifies, or abolishes funds within various departments, and transfers unencumbered balances to the general fund.

**RATIONALE:** This bill is unconstitutional. In particular, the transfer of funds from the Milk Control Special Fund to the general fund is a violation of the separation of powers doctrine, as the fees are assessed by the Department of Agriculture through administrative rules and not by the Legislature through statute. This measure would have deposited these fees into the general fund, but by statute, the fees must be expended for purposes of administering the Milk Control Act instead of being used for general public purposes.

The bill also unconstitutionally reclassifies the Department of Hawaiian Homelands’ Hawaiian Home Receipts Fund (HHRF) as a trust account. This reclassification directly contradicts the Hawaiian Homes Commission Act, which explicitly identifies the HHRF as a trust fund. This change could impair or reduce the benefit of oversight that is normally provided by a fund, which may require consent of the U.S. Congress as determined by the Department of the Interior.

Additionally, Hawaiʻi’s fiscal situation has improved dramatically since the Governor’s Executive Biennium Budget and Financial Plan was presented to the Legislature in December 2020, reducing the pressing need for the extraordinary revenue actions proposed in HB1299.

[**SB140 SD2 HD2 CD1**](https://www.capitol.hawaii.gov/measure_indiv.aspx?billtype=SB&billnumber=140&year=2021) **– RELATING TO COMMUNITY DEVELOPMENT**

This bill creates the Transit-Oriented Zone Development Improvement Board (TOZDIB) to plan for development around transit stations.

**RATIONALE:** This bill establishes a new board in violation of the organizational placement requirement of section 6 of article V of the Hawai‘i State Constitution, which requires that all boards be allocated to one of the twenty principal state departments. Because the new board is not placed within a principal department of the State, this bill is unconstitutional.

Additionally, there is already a Hawai‘i Interagency Transit-Oriented Development Council that has been meeting since 2016. It is unclear whether duties would be duplicated between these two organizations.

This bill was significantly amended during conference, thereby denying public input.

[**SB589 SD2 HD2 CD1**](https://www.capitol.hawaii.gov/measure_indiv.aspx?billtype=SB&billnumber=589&year=2021) **– RELATING TO THE UNIVERSITY OF HAWAIʻI**

This bill codifies the UH Cancer Center into law as the Cancer Research Center of Hawai‘i and requires the director of the Center and dean of the John A. Burns School of Medicine to report to the Provost of the University of Hawaiʻi at Mānoa. It further requires the Medical School and the Cancer Center to merge their administrative and infrastructure functions. Additionally, the bill extends the sunset on rules governing the transfer of technology and innovation and commercialization efforts between the university and a private party.

**RATIONALE**: This measure may put the state in violation of the U.S. Constitution’s contracting clause. If enacted into law, the rule changes governing the transfer of technology and commercialization initiatives could jeopardize existing contracts committed to by the University. This would be a violation of the U.S. Constitution’s contracting clause, which forbids states from passing laws that impair the obligation of contracts.

Additionally, codifying the UH Cancer Center into law and setting organizational reporting into statute, limits the university’s flexibility to make changes to that structure in the future. While merging the administrative functions of the Cancer Center and Medical School may achieve cost savings, these structural changes should be made in consultation with the leadership of the respective institutions and UH Mānoa leadership.

**CONFLICTS WITH AMERICAN RESCUE PLAN ACT OF 2021:**

[**HB200 HD1 SD1 CD1**](https://www.capitol.hawaii.gov/session2021/bills/HB200_CD1_.htm) **– RELATING TO THE STATE BUDGET**

This bill makes appropriations and fund authorizations for the Executive Branch in FB 2021-23.

**RATIONALE:** The American Rescue Plan Act (ARPA) restricts states from using Coronavirus State Fiscal Recovery Fund (CSFRF) monies for general obligation bond debt service (HB200 appropriates $160 million in FY22 and $153.7 million in FY23 of CSFRF for this purpose) and programs that have federal fund matching requirements (HB200 appropriates $134,000 in FY22 and $1.1 million in FY23 of CSFRF for this purpose). It is only these items will be line item vetoed; all other legislative appropriations remain.

[**HB613 HD2 SD2 CD2**](https://www.capitol.hawaii.gov/measure_indiv.aspx?billtype=HB&billnumber=613&year=2021) **– RELATING TO EDUCATION**

This bill seeks to appropriate federal funds from the Coronavirus Response and Relief Supplemental Appropriation and the American Rescue Plan Act for the purposes of conducting various education related services. As written, the bill also requires the Department of Education to seek legislative approval to make any adjustments to the appropriations made in each category specified in the bill.

**RATIONALE:** Appropriations made in this bill do not comply with federal guidance for spending and put the state at risk of being in violation of federal rules. Violation of federal rules could require the return of such funds. According to guidance issued by the U.S. Department of Education, state legislatures do not have the ability to limit a local education agency’s use of funds appropriated through the CARES Act or ARPA. For federal purposes, HIDOE is considered both a state education agency, as well as a local education agency. The proscriptive limits on spending for each service category outlined in the bill, effectively limit HIDOE’s ability to allocate funds under current federal guidance.

Additionally, the federal government requires a local education agency using ARPA funds to develop a spending plan that incorporates “meaningful consultation” with community stakeholders, including teachers, principals students, school staff, unions, civil rights organizations, English learners, and various other groups. The spending plan outlined in HB613 was developed during conference committee and it is unclear whether any meaningful community consultation occurred. This lack of a transparent and open consultation process further puts the state and Department of Education at risk of being in violation of federal guidance.

**REFLECTING HAWAIʻI’S CURRENT FISCAL SITUATION:**

Hawai‘i’s fiscal situation has improved dramatically from the time that the FB 2021-23 Executive Biennium Budget and Financial Plan was presented to the Legislature in December 2020. Since then, the Council on Revenues has met three times and increased its general fund revenue projections for fiscal years 2021 through 2027 by a total of $6.1 billion over this seven-year period.

In addition, the Coronavirus Response and Relief Supplemental Appropriations Act of 2020 and American Rescue Plan Act of 2021 provides substantial federal funding to address a range of pandemic-related state costs. They include nearly $600 million for the Department of Education and $1.64 billion of general-purpose funding to mitigate state revenue losses and increased COVID-related expenses.

[**HB53 SD1 CD1**](https://www.capitol.hawaii.gov/measure_indiv.aspx?billtype=HB&billnumber=53&year=2021) **– RELATING TO STATE BONDS**

This bill authorizes the issuance of general obligation bonds in an amount not to exceed $1,291,787,000 to finance appropriations for which the sources of funding are the general obligation bond fund and the reimbursable general obligation bond fund as provided in HB200 ($1,283,701,000) and HB185 ($8,086,000).

**RATIONALE:** Hawaiʻi’s fiscal situation has changed so much since this bill was introduced that there is no longer the pressing need for the extraordinary revenue actions proposed in HB53. The general obligation bonds proposed by this bill and the associated general obligation bond declaration may be invalid because there might be insufficient funding for the debt service on these bonds.

HB54 needs to be amended to appropriate general funds for debt service in place of the Coronavirus State and Local Fiscal Recovery Funds appropriations in HB200 and HB54 before this measure can be approved.

[**HB54 HD1 SD1 CD1**](https://www.capitol.hawaii.gov/measure_indiv.aspx?billtype=HB&billnumber=54&year=2021) **– RELATING TO THE STATE BUDGET**

This bill appropriates general funds and federal stimulus funds to the Department of Budget and Finance to cover fixed costs and replenish the State’s rainy-day fund.

**RATIONALE:** The Administration supports the measure’s intent to replenish the Emergency and Budget Reserve Fund and is exploring ways to fix essential debt service appropriations in HB200 and HB54, including three critical needs: 1) General funds for general obligation bond debt service to replace federal American Rescue Plan Act (ARPA) funds which is a prohibited use under recent U.S. Department of Treasury (Treasury) rules; 2) special funds for operations of the Convention Center and Hawai‘i Tourism Authority (HTA) that were not included in the Executive Biennium Budget; and 3) general funds for existing and new legislative-initiated programs that were not funded in the Executive Biennium Budget, or were funded by federal Elementary and Secondary Schools Emergency Relief (ESSER) funds through the legislative appropriation process which does not comply with recent U.S. Department of Education (U.S. DOE) rules on development of an ESSER spending plan.

[**HB58 HD1 SD1 CD1**](https://www.capitol.hawaii.gov/measure_indiv.aspx?billtype=HB&billnumber=58&year=2021) **- RELATING TO STATE FUNDS**

This measure temporarily suspends certain general excise and use tax exemptions and increases conveyance taxes for the sale of non-commercial properties valued at $4,000,000 or greater.

**RATIONALE:** Hawaiʻi’s fiscal situation has changed so much since this bill was introduced that there is no longer the pressing need for the extraordinary revenue actions proposed in HB58. There is concern that due to the county definitions of commercial property, there may be inadvertent negative consequences on family-owned businesses. Additionally, the increase in conveyance tax rates for non-commercial properties could adversely affect the development of affordable rental housing, one of the Administration’s major priorities.

[**HB862 HD2 SD2 CD1**](https://www.capitol.hawaii.gov/measure_indiv.aspx?billtype=HB&billnumber=862&year=2021) **- RELATING TO STATE GOVERNMENT**

This measure makes significant changes to the Transient Accommodations Tax (TAT), including repealing TAT funding for the counties (but authorizing counties to establish their own TAT capped at 3%), repealing TAT funding for the HTA, and amending TAT funding to the Hawai‘i Convention Center Enterprise Special Fund. The bill makes significant functional changes to the Hawai‘i Tourism Authority (HTA), including repealing the Tourism Special Fund, repealing HTA’s procurement exemption and HTA’s market development-related research authority. It also switches HTA funding to ARPA and reduces HTA’s funding levels by 24%.

**RATIONALE:** Coupled with HB200, HB862 would not authorize HTA to operate the Hawaiʻi Convention Center (HCC) beyond the $11M ceiling. This low ceiling will restrict the HCC from attracting additional events and fulfilling its mission. Funding requested in the Administration’s Executive Biennium Budget allows the HCC to operate at full potential.

The Transient Accommodations Tax was established to provide dedicated funding to allow visitor spending to mitigate visitor impacts on the community. HTA has refocused its efforts beyond marketing to destination management and is looking to strike a more sustainable balance with respect to tourism’s impacts on our community. Shifting funding sources to appropriations from ARPA makes this support less predictable and could undermine HTA’s efforts.

[**HB1296 HD1 SD2 CD1**](https://www.capitol.hawaii.gov/measure_indiv.aspx?billtype=HB&billnumber=1296&year=2021) **– RELATING TO STATE FUNDS**

This measure seeks to re-allocate funds from the state’s tobacco settlement monies, while making other appropriations for staffing in various departments. Part 1 repeals the Tobacco Control and Prevention Trust Fund and transfers any remaining balances into the general fund, eliminates settlement monies dedicated to the University of Hawai‘i’s revenue-undertakings fund by July 2033, and caps the total amount in the Tobacco Settlement Special Fund at $4.3 million annually.

Part 2 makes an emergency appropriation to the state’s Emergency Medical Services program, while Part 3 appropriates funding for 2 permanent and 5 temporary positions in the governor’s office. Part 4 requires the university to reimburse the state for fringe benefit costs for any position paid for by a special fund. It also prohibits the University of Hawai‘i Cancer Center from using cigarette tax revenue for research or operation costs. Part 5 establishes a threat assessment team at the Department of Defense and Part 6 appropriates funding for 1 full-time position at the Department of Human Resources Development.

**RATIONALE:** Hawai‘i’s fiscal situation has changed so much since this bill was introduced that there is no longer the pressing need for the extraordinary revenue actions proposed in HB1296.

By repealing the Tobacco Settlement Trust Fund, this bill eliminates a consistent funding source for tobacco control and prevention programs. While monies from the Master Settlement Agreement can fluctuate from year to year, the creation of a professionally managed trust fund for settlement monies provided a steady and reliable source of revenue for highly effective public health and prevention initiatives. This move was lauded for its creativity in leveraging private dollars to ensure steady long-term funding.

Additionally, HB1296 would significantly increase costs for the University of Hawai‘i, while simultaneously eliminating the UH Cancer Center’s ability to conduct cancer research and cancer center operations with cigarette tax revenue. The potential public health impacts of defunding prevention and cessation programs will likely amount to significantly higher cost to the state’s health systems in future years.

While HB1296 was likely an effort to increase general fund revenues in a time of financial uncertainty, recent improvements in the state’s revenue forecast eliminate the need for this bill.

Additionally, the measures that passed out of the respective chambers solely addressed the Tobacco Settlement fund. Sections two through six in the final version were not provided an opportunity for public comment.

**ACTIVITIES EXIST TO ADDRESS:**

[**HB338 HD1 SD1**](https://www.capitol.hawaii.gov/measure_indiv.aspx?billtype=HB&billnumber=338&year=2021) **– RELATING TO THE JUDICARY**

This bill requires a hearing each time a conflict of interest is alleged against a judge or justice by any party in a suit.

**RATIONALE:** The parties in a case already have a mechanism for raising conflict of interest concerns. The Supreme Court of the State of Hawai‘i is the primary authority responsible for setting the rules of appellate courts and is currently seeking public comment on proposed administrative rules that aim to address the concerns referenced in HB338, preempting the need for this bill.

Furthermore, the measure requires a hearing which limits the courts’ ability to reject spurious claims, slowing down the appellate process.

[**HB1284 HD2 SD2 CD1**](https://www.capitol.hawaii.gov/measure_indiv.aspx?billtype=HB&billnumber=1284&year=2021) **- RELATING TO THE DEPARTMENT OF HUMAN SERVICES**

Establishes the all-claims, all-payer data center steering committee within the Department of Human Services to oversee the all-claims, all-payer database and data center.

**RATIONALE:** This measure is duplicative as it creates a committee within the Department of Human Services that is almost identical to one in both makeup and responsibilities already established under State Health Planning and Development Agency.

Additionally, the newly established committee lacks the statutory authority over the all-claims, all-payer data center it is tasked to steer, making the bill ineffective.

The bill was also drastically amended in the final senate committee hearing, leaving no opportunity for public comment on the changes.

[**SB153 SD2 HD1 CD1**](https://www.capitol.hawaii.gov/measure_indiv.aspx?billtype=SB&billnumber=153&year=2021) **– RELATING TO THE STATEWIDE TRAFFIC CODE**

This bill establishes a new council to address and develop strategies for reducing impaired driving in Hawai‘i.

**RATIONALE**: Creating a new council duplicates effort already underway. The Department of Transportation already convenes the Hawai‘i Drug and Alcohol Intoxicated Driving group which serves the same function. The group has been in operation for several years and focuses on driving behavior, programs, and enacting laws dealing with drinking and driving to save lives on Hawai‘i’s roadways.

Additionally, while this measure was initially introduced to establish penalties for violations of Hawai‘i’s ignition interlock law, the creation of a new council to address impaired driving issues did not arise until conference committee, thus limiting the opportunity for public input.

[**SB263 SD2 HD2 CD1**](https://www.capitol.hawaii.gov/measure_indiv.aspx?billtype=SB&billnumber=263&year=2021) **– RELATING TO ECONOMIC DEVELOPMENT**

This bill transfers oversight of the *Hawai‘i Made* program from the Department of Agriculture to the Department of Business, Economic Development & Tourism.

**RATIONALE:** While the measure establishes the *Hawai‘i* *Made* program in the Department of Business, Economic Development & Tourism, the existing program within the Department of Agriculture was not repealed, which could lead to confusion between the departments and manufacturers who utilize the program. The new program was also created without an enforcement mechanism.

The Administration recognizes the importance of supporting this program to promote local businesses and offers to collaborate with legislators in the interim to introduce a new version new year.

[**SB639 SD1 HD1 CD1**](https://www.capitol.hawaii.gov/measure_indiv.aspx?billtype=SB&billnumber=639&year=2021) **– RELATING TO COURTS OF APPEAL**

This bill prevents the courts from making a decision based on reasons not brought up by the parties of the case unless the parties are given the chance to weigh in on the issue. The measure also forces a re-hearing if parties are not given the chance to brief the court.

**RATIONALE:** This bill is unnecessary because the Supreme Court of Hawai‘i is currently in the process of updating its administrative rules to address these concerns. The Supreme Court has primary jurisdiction over the rules of appellate proceedings. The legislation as written does not give leeway for the court to address plain errors and is unclear on when a re-hearing would be triggered.

[**SB811 HD1 CD1**](https://www.capitol.hawaii.gov/measure_indiv.aspx?billtype=SB&billnumber=811&year=2021) **– RELATING TO THE DEPARTMENT OF EDUCATION**

This bill requires the Department of Education to publish a weekly report on any student, staff member or affiliated individuals who have tested positive for COVID-19. Each report must include the school’s name, the date the positive test result was reported to the school, and date that the COVID positive person was last on campus. The bill requires the report to be published weekly, beginning July 1, 2021 on the Department of Education’s website.

**RATIONALE:** This bill is unnecessary because the Department of Education and the Department of Health have already established protocols to report cases, notify contacts and prevent transmission in schools. This bill may also increase the potential for individuals to be identified, harassed, or discriminated against if weekly reporting is required. As written, SB811 possesses a high potential for privacy violations, particularly in smaller communities.

[**SB1409 SD2 HD1 CD1**](https://www.capitol.hawaii.gov/measure_indiv.aspx?billtype=SB&billnumber=1409&year=2021) **- RELATING TO TRAINING IN NATIVE HAWAIIAN RIGHTS**

This bill prohibits newly appointed or reappointed council, board, and commission members from serving, if the member has not completed, within the requisite time, the required training course related to native Hawaiian rights. It also requires the Office of Hawaiian Affairs (OHA) and Department of Land and Natural Resources (DLNR) to compile an annual report of members who have failed to complete their training course requirement. The bill also requires the Office of Hawaiian Affairs to record the training courses and make the recordings available to those who were unable to attend the training course.

**RATIONALE:** This bill is unnecessary because it attempts to fix a problem that does not exist. The vast majority of members required to undergo such training have already completed a class in native Hawaiian rights conducted by the University of Hawai‘i’s Ka Huli Ao Center for Excellence in Native Hawaiian Law. Review of this issue shows record discrepancies among OHA, Ka Huli Ao, and DLNR rather than significant numbers failing to take the class. A review of records of 43 board and commission members across the five DLNR-managed boards and commissions (not including new or retired members or vacancies, and including two who took the class in 2013 before the statute was passed) revealed that only two individuals had not yet completed the training. Any continuing gaps can be covered by more course time offerings, online course offerings, and ability of volunteer board and commission members to take the class on their own schedule rather than on set days including workdays and weekends.

**DUE PROCESS AND LACK OF TRANSPARENCY CONCERNS:**

[**HB465 HD1 SD1**](https://www.capitol.hawaii.gov/measure_indiv.aspx?billtype=HB&billnumber=465&year=2021) **- RELATING TO COLLECTIVE BARGAINING**

This bill changes the appointment process for the representative of labor on the Hawai‘i Labor Relations Board by reducing the number of names provided by the exclusive representatives of labor from three to one.

**RATIONALE:** The nomination of a single name instead of several candidates creates due process concerns. With only one name provided, the measure effectively undermines the sanctity of the appointment process as it has the potential to upset the balance of interests needed on this board which adjudicates important issues that affect the public.

[**HB515 HD1 SD2**](https://www.capitol.hawaii.gov/measure_indiv.aspx?billtype=HB&billnumber=515&year=2021) **– RELATING TO THE DEPARTMENT OF EDUCATION**

This measure seeks to accomplish two goals relating to the Department of Education. Part 1 of the bill requires the state auditor to conduct a survey of the school food services branch to identify the amount of local produce being purchased and served in school cafeterias. This audit is designed to establish a baseline amount of locally sourced produce being purchased by the branch.

Part 2 of the bill amends a current statute governing the Board of Education’s ability to appoint the superintendent of education. This section amends the language to include new criteria and qualifications that potential candidates must meet to be considered for the superintendent position.

**RATIONALE:** The Department of Education’s School Food Services branch is already conducting its own system-wide audit of local produce purchased and served in school cafeterias. Requiring the state auditor to conduct another audit would be a duplication of effort and is unneeded at this time.

Regarding Part 2, the BOE is the primary government entity charged with determining educational policy and appointing the superintendent of education. Part 2 effectively usurps the board’s discretion over hiring and may have an unintended consequence of limiting the supply of future candidates for the position.

While the administration fully supports increasing the amount of local produce served in schools, the second part of this bill interferes with the Board of Education’s statutory obligation to appoint the superintendent.

[**HB663 HD1 SD1**](https://www.capitol.hawaii.gov/measure_indiv.aspx?billtype=HB&billnumber=663&year=2021) **- RELATING TO THE GAME MANAGEMENT ADVISORY COMMISSION**

This bill amends the manner of appointment of members to the Game Management Advisory Commission. Except for the chairperson of the Board of Land and Natural Resources, the governor must choose all members from lists provided by the House Speaker and Senate President.

**RATIONALE:** The nomination of all but one commission member from lists provided by the Legislature creates due process concerns. It diminishes the governor’s role in the appointment process and upsets the balance of interests needed on this board which provides key input to the Department of Land and Natural Resources affecting a range of recreational activities enjoyed by the public.

[**SB404 HD2 CD1**](https://www.capitol.hawaii.gov/measure_indiv.aspx?billtype=SB&billnumber=404&year=2021) **– RELATING TO ELECTIONEERING COMMUNICATIONS**

This measure exempts certain expenditures for electioneering communications from disclosure, lowers the monetary threshold that triggers disclosure from $2,000 to $1,000, repeals the requirement for disclosure of any electioneering communications that occur subsequent to the initial disclosure, and excludes candidates and candidate committees from the disclosure requirements.

**RATIONALE:** To completely exempt candidates from the political advertisements disclosure requirements for the 2022 elections and beyond, would be a tremendous blow to public transparency in political spending. Although this bill was introduced as an Administration bill aimed at increasing transparency in the electoral process, the final version passed by legislators results in significantly less electoral transparency. The bill reduces reporting requirements for certain types of electioneering communications or political advertisements, and completely exempts candidates and candidate committees. In the 2020 elections, candidate committees filed 1,298 statements of information for electioneering communications and noncandidate committees filed 145 statements of information. The final version passed out of conference committee completely exempts candidates and candidate committees from the requirement of filing statements of information for electioneering communications.

**IMPLEMENTATION CONCERNS:**

[**HB546 HD2 SD2 CD1**](https://www.capitol.hawaii.gov/measure_indiv.aspx?billtype=HB&billnumber=546&year=2021) **– RELATING TO EDUCATION**

This bill requires complex-area superintendents to report directly to the superintendent of education. It also requires the Department of Education’s offices of information technology and strategy, innovation, and performance to submit reports to the legislature on how they intend to restructure their respective offices.

**RATIONALE:** This bill creates an unnecessary structural change in staff reporting at the Department of Education and may prevent the superintendent from effectively conducting the core job function. The primary role for the superintendent of education is to oversee the planning, organizing, and directing of system-wide programming, financing, and personnel. HB546 increases the number of direct reports to the superintendent of education by 15 people. Currently, complex-area superintendents report to the deputy superintendent, who is charged with overseeing academic and educator development, and is better positioned to oversee the work of complex-area superintendents. The existing organizational structure allows the superintendent to focus on the overall strategic planning and vision for the department.

[**HB572 HD1 SD1**](https://www.capitol.hawaii.gov/measure_indiv.aspx?billtype=HB&billnumber=572&year=2021) **– RELATING TO THE HAWAIʻI EMERGENCY MANAGEMENT AGENCY**

This bill attaches the Hawai‘i Emergency Management Agency (HI-EMA) to the Department of Defense for administrative purposes and makes the director of the agency report directly to the governor.

**RATIONALE:** This measure is objectionable because the timing of the implementation does not give the state, nor the department, enough time to fully assess other potential alternative organizational structures for HI-EMA, as well as time to determine the ramifications of the administrative attachment of HI-EMA, particularly during COVID-19 incident operation coordination. Revisiting this issue next year will allow for greater review of various options for reorganization that may result in greater efficiencies than the current plan outlined in the bill.

[**HB817 HD2 SD2**](https://www.capitol.hawaii.gov/measure_indiv.aspx?billtype=HB&billnumber=817&year=2021) **- RELATING TO AGRICULTURE**

This bill sets a minimum percentage of locally sourced agricultural products that each state department must purchase. The benchmark begins in 2025 at 10% of the total amount purchased, increasing incrementally every 5 years to 50% by 2050.

**RATIONALE**: The benchmarks set in this bill conflict with those set in HB767, which legislators also passed, requiring the Department of Education to achieve a goal of 30% locally sourced agricultural products by 2030. While we support the objective of setting targets for the purchasing of locally sourced products by state procurement, this measure incurs significant budget costs for some departments, especially for the Department of Public Safety.

[**HB895 SD1**](https://www.capitol.hawaii.gov/measure_indiv.aspx?billtype=HB&billnumber=895&year=2021) **– RELATING TO CREDIT FOR TIME OF DETENTION PRIOR TO SENTENCE**

This bill changes how credit for time served is calculated when a currently incarcerated defendant is awaiting trial for a separate offense.

**RATIONALE:** This bill attempts to prevent time served in pretrial detention from being counted towards the original sentence, which is in clear violation of sentencing guidelines and the current statute. While this measure was originally intended to clarify the law, the version passed by the Legislature adds greater confusion.

[**SB807 SD2 HD2 CD1**](https://www.capitol.hawaii.gov/measure_indiv.aspx?billtype=SB&billnumber=807&year=2021) **– RELATING TO EDUCATION**

This bill requires the academic plan for each school to include new measurements, including an accounting of resources used to achieve each measurable outcome, a breakdown of costs and funding sources, as well as full and part-time positions used to achieve each outcome. SB807 also requires the department to include student growth indicators such as the National Assessment of Education Progress (NAEP), a listing of programs designed to address social and economic conditions that impact learning, a breakdown of teacher vacancy data, and average class size for each regular education, special education, and English language learner class. The bill further specifies that the department should use an “authentic assessment” of student performance, which it defines as being composed of multiple measurements other than standardized testing.

**RATIONALE:** Schools are already required to create academic and financial plans, and the new measurements specified by this bill may not add value for schools any more than the current measurements. Specifically, the option to use the National Assessment of Education Progress (NAEP), which uses random samples of schools throughout the system every other year, does not provide an accurate assessment of results at the individual school level. It may also be difficult to report data consistently across all schools if the Legislature is requiring an “authentic assessment”, as defined in the bill. Measurements will likely differ from school to school, making system wide reporting problematic. Furthermore, this bill adds additional requirements for data analysis, while the position for the assistant superintendent overseeing data collection was eliminated in HB200.

[**SB1387 SD1 HD2 CD1**](https://www.capitol.hawaii.gov/measure_indiv.aspx?billtype=SB&billnumber=1387&year=2021) **- RELATING TO MICROCHIP IDENTIFICATION**

This measure requires dog and cat owners to microchip their pets and update the ownership information when pets are transferred between owner but provides an exemption for animals that are part of a “designated population management program.”

**RATIONALE:** The introduction of an exemption in statute for an undefined “designated population management program” is problematic. No such designation exists and there is no agency or entity responsible for creating such a designation. The bill will introduce conflict and confusion with county ordinances that already define “ownership” and identification requirements. The City and County of Honolulu and Kauaʻi County already have mandatory microchipping requirements. The exemption appears to refer to outdoor cat colonies, in which humans support the existence of outdoor and/or feral cat colonies by providing food and in some cases attempt to manage colony size through trapping, neutering, and then returning animals to the outdoors. The Department of Land and Natural Resources has previously noted its opposition to the maintenance of cat colonies that may impact native wildlife or other public resources, as well as to the practice of returning neutered cats to colonies as a form of population “management.”

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