

Honolulu, Hawaii

FEB 18 2022

RE: S.B. No. 3269
S.D. 1

Honorable Ronald D. Kouchi
President of the Senate
Thirty-First State Legislature
Regular Session of 2022
State of Hawaii

Sir:

Your Committee on Higher Education, to which was referred
S.B. No. 3269 entitled:

"A BILL FOR AN ACT RELATING TO ACADEMIC TENURE AT THE
UNIVERSITY OF HAWAII,"

begs leave to report as follows:

The purpose and intent of this measure is to:

- (1) Outline tenure requirements and criteria for tenure-track faculty;
- (2) Require a minimum of at least one performance review every five years for tenured and tenure-track faculty;
- (3) Require a minimum of at least one performance review every three years for administrative, professional, and technical and non-tenurable employees;
- (4) Establish minimum faculty categories for all campuses; and
- (5) Establish a "C" classification for instructors at the community colleges.

Your Committee received testimony in support of this measure from three individuals. Your Committee received testimony in



opposition to this measure from University of Hawai'i at Mānoa Department of Political Science; Hawaii Nurses' Association - OPEIU Local 50; Hawaii State AFL-CIO; Hawaii Cattlemen's Council, Inc.; Graduate Student Organization of the University of Hawai'i at Mānoa Executive Council; International Alliance of Theatrical Stage Employees, Moving Picture Technicians, Artists and Allied Crafts of the United States, Its Territories, and Canada, AFL-CIO, CLC Local 665; Hawaii Firefighters Association; Hawai'i Library Association; a petition containing the signatures of nineteen faculty and staff members from the University of Hawaii Cancer Center; and one hundred seventy-one individuals. Your Committee received comments on this measure from one individual.

Prior to the hearing on this measure, your Committee posted and made available for public review a proposed S.D. 1, which amends this measure by:

- (1) Amending the preamble to correct the statement that the University of Hawaii Board of Regents adopted the permitted interaction group's Resolution 21-06, which supported recommendations by the permitted action group;
- (2) Including librarians and employees previously classified as "B" to be eligible for tenure; and
- (3) Creating a "C" category to classify community college faculty as employees who teach classes but are not required to conduct research.

Your Committee received testimony in support from one individual. Your Committee received testimony in opposition from the Office of Collective Bargaining; University of Hawai'i System; Hawaii Community College Academic Support Division Faculty; University of Hawai'i at Mānoa Hawai'inuiākea School of Hawaiian Knowledge; State of Hawaii Organization of Police Officers; United Public Workers, AFSCME Local 646, AFL-CIO; University of Hawaii Professional Assembly; Hawaii Government Employees Association AFSCME Local 152, AFL-CIO; and eighty-eight individuals. Your Committee received comments on the proposed S.D. 1 from one individual.

Your Committee finds that the University of Hawaii is the only system of public education in Hawaii that is supported by



state funds, uses public land set aside for university purposes, and is continually supported by other public resources. Some of the university's workforce that are supported by public resources are faculty who teach and provide other instruction in various academic disciplines and professional fields such as law and medicine, while other faculty primarily engage in research or who provide specialized services but who are not typically employed in a teaching capacity. Within academic institutions, the term "academic tenure" is generally understood to mean the right of a faculty member to permanent or continuous service, which is granted following a rigorous process that includes a probationary service period and evaluations on various criteria. The decision to classify a position as eligible for a possible grant of tenure to the incumbent results in the long-term commitment of public resources for that position.

In 2021, the Senate passed Senate Concurrent Resolution No. 201, S.D. 1, H.D. 1, Regular Session of 2021 (S.C.R. No. 201), to urge the University of Hawaii to convene a task force to examine and assess the University of Hawaii tenure system. Following the enactment of S.C.R. No. 201, the Board of Regents of the University of Hawaii created a permitted interaction group to review the issue of tenure with a focus on the history and evolution of tenure and current criteria used for decision-making on tenure. The permitted interaction group found that, while tenure is still a critical component to academic freedom and retention of faculty, in recent years, the University of Hawaii has been reducing the number of tenured faculty. In addition, the permitted interaction group further found that "to establish policy direction in conducting promotion and tenure to ensure that university priorities and mission are met" revisions to review policies should be considered.

While your Committee has heard the concerns of many testifiers from the community, your Committee also considered the findings from the permitted interaction group, which suggested revisions to classification plans and incorporation of revisions regarding periodic review of university employees should be considered. In addition, classifications of community college faculty and instructors were not adequately addressed, leading to this group's omission in the original classification system. Amendments are therefore necessary to address some issues raised



by the permitted interaction group findings and testimony regarding the community college classification.

Accordingly, your Committee has amended this measure by adopting the proposed S.D. 1 and further amending the measure by:

- (1) Clarifying that only support faculty and extension agents, personnel classified as "FSE", hired after June 30, 2022, shall be subject to section 304A-1002(3), Hawaii Revised Statutes;
- (2) Clarifying eligibility for tenure for community college faculty classified as "C"; and
- (3) Making technical, nonsubstantive amendments for the purposes of clarity and consistency.

As affirmed by the record of votes of the members of your Committee on Higher Education that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 3269, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 3269, S.D. 1, and be referred to your Committee on Ways and Means.

Respectfully submitted on
behalf of the members of the
Committee on Higher Education,



DONNA MERCADO KIM, Chair



The Senate
 Thirty-First Legislature
 State of Hawai'i

Record of Votes
Committee on Higher Education
HRE

Bill / Resolution No.:*	Committee Referral:	Date:
SB 3269	HRE, WAM	2-10-22


The Committee is reconsidering its previous decision on this measure.
 If so, then the previous decision was to: _____

The Recommendation is:

Pass, unamended 2312
 Pass, with amendments 2311
 Hold 2310
 Recommit 2313

Members	Aye	Aye (WR)	Nay	Excused
KIM, Donna Mercado (C)	✓			
KIDANI, Michelle N. (VC)	✓			
KEITH-AGARAN, Gilbert S.C.				✓
WAKAI, Glenn		✓		
FEVELLA, Kurt	✓			
TOTAL	3	1		1

Recommendation: Adopted Not Adopted

Chair's or Designee's Signature: 

Distribution: Original Yellow Pink Goldenrod
 File with Committee Report Clerk's Office Drafting Agency Committee File Copy

*Only one measure per Record of Votes