HOUSE CONCURRENT RESOLUTION

URGING THE UNITED STATES CONGRESS, THE FEDERAL AVIATION ADMINISTRATION, AND THE HAWAII DEPARTMENT OF TRANSPORTATION TO TAKE EVERY ACTION NECESSARY TO ADDRESS RAPIDLY INCREASING SAFETY RISKS AND COMMUNITY DISRUPTION RESULTING FROM INSUFFICIENT REGULATION OF RAPIDLY INCREASING OPERATIONS OF TOUR HELICOPTERS AND SMALL AIRCRAFT THROUGHOUT HAWAII SKIES.

WHEREAS, the volume and extent of tour helicopter and small aircraft operations throughout Hawaii's skies have rapidly increased in the past decade, even more so in recent years; and

WHEREAS, with such increases, the safety risks to helicopter and small aircraft passengers, and to the Hawaii residents and visitors over which the helicopters and small aircraft fly daily, have rapidly increased; and

WHEREAS, tour helicopters and small aircraft in Hawaii's skies, through noise, vibration, and visual impacts, have increasingly disrupted residential, business and industrial communities; state and national parks, such as Hawaii Volcanoes National Park and Haleakala National Park; defense areas, such as Joint Base Pearl Harbor-Hickam; cemeteries and areas of solemnity, such as the National Memorial Cemetery of the Pacific and Pearl Harbor National Memorial; and areas of critical infrastructure; and

WHEREAS, the National Transportation Safety Board, which is the federal agency responsible for investigating aircraft collisions and for making recommendations on improving the safety of aircraft operations, found that Hawaii tour helicopter and small aircraft operations accounted for nine of the nationwide fifty-four accidents that prompted investigations by the board over the last five years; and
WHEREAS, within the last twelve months alone, twenty-three lives were lost through the following tour helicopter and small aircraft collisions in the State:

(1) On April 29, 2019, a tour helicopter crashed into a residential neighborhood in Kailua, Oahu, killing three people;

(2) On June 21, 2019, a commercial small aircraft crashed at Mokuleia, Oahu, killing eleven people;

(3) On December 27, 2019, a tour helicopter crashed on Kauai, killing seven people; and

(4) On February 22, 2020, a commercial small aircraft crashed at Mokuleia, Oahu, killing two people; and

WHEREAS, over the past decade, tour helicopters and small aircraft have been involved in several other incidents that, while not fatal, nevertheless constituted severe risks to the passengers, residents, and visitors on the ground; and

WHEREAS, the foregoing disruptions and crashes are largely the result of a lack of effective federal regulations and a lack of self-regulation in the tour helicopter and small aircraft industry; and

WHEREAS, effective regulations to eliminate or mitigate ground disruptions would place restrictions on the time, routes, altitude, and frequency of helicopter and small aircraft operations; and

WHEREAS, communities would be safer and would face fewer disruptions from tour helicopter and small aircraft operations if existing federal acts and regulations, including the following, were used to their full extent:

(1) The National Park Air Tour Management Act of 2000, as amended, which requires operators conducting commercial air tours over national parks to operate pursuant to an air tour management plan issued by the Federal Aviation Administration, or in lieu of such a
plan, pursuant to a voluntary agreement with the agency;

(2) The Airport Noise and Capacity Act of 1990, which establishes the Federal Aviation Administration's authority over airport owners' noise restrictions; and

(3) Title 14 Code of Federal Regulations part 50, which regulates the Federal Aviation Administration's airport noise compatibility planning programs; and

WHEREAS, the Federal Aviation Administration largely asserts that it has exclusive jurisdiction over regulating the nation's airspace and aircraft operations, which means that the Federal Aviation Administration, not the State, has the sole power and responsibility to establish and enforce restrictions that would prevent tour helicopter and small aircraft operations from disrupting communities; and

WHEREAS, although the National Transportation Safety Board has made various safety recommendations to the Federal Aviation Administration that would apply to tour helicopter and small aircraft operations, the board is still waiting for an acceptable response from the Federal Aviation Administration on a number of the recommendations; and

WHEREAS, following the April 29, 2019, crash in Kailua, the Chairman of the National Transportation Safety Board stated that "each crash underscores the urgency of improving the safety of charter flights by implementing existing [board] safety recommendations", and called for small aircraft flight safety improvements; and

WHEREAS, the Federal Aviation Administration and the operators of Hawaii tour helicopters and small aircraft are currently in the process of updating the Hawaii Air Tour Common Procedures Manual, which is an agreement between the Federal Aviation Administration and the operators over various operational and safety procedures, but are not making this manual available for public review or comment; and
WHEREAS, the Federal Aviation Administration, Hawaii Department of Transportation, some Hawaii tour helicopter companies, and other interested stakeholders have formed the "Hawaii Air Noise and Safety Task Force" with the stated intent of addressing increasing safety and community disruption concerns, but are not providing opportunities for public comment or participation; and

WHEREAS, an increasing number of elected officials and community organizations have expressed increasing concern with safety risks and community disruption arising from tour helicopter and small aircraft operations; and

WHEREAS, Ed Case, Representative for the First Congressional District of Hawaii, has introduced legislation, H.R. 4547, with a short title of the "Safe and Quiet Skies Act of 2019"; and

WHEREAS, if enacted, H.R. 4547 would, in pertinent part:

(1) Prohibit commercial air tours from operating over or within a half mile of especially sensitive locations;

(2) Require the Federal Aviation Administration to require the use of automatic dependent surveillance-broadcast out equipment during the entire operation of a commercial air tour;

(3) Require the Federal Aviation Administration to prohibit pilots from undertaking any activities other than flying the aircraft, including monitoring video equipment or narrating, during the operation of a commercial air tour;

(4) Impose minimum altitude requirements and noise restrictions on commercial air tours;

(5) Authorize state and local jurisdictions to impose additional requirements on commercial air tours;

(6) Require the Federal Aviation Administration to implement any recommendations issued by the National Transportation Safety Board concerning operators of
commercial aircraft on which the Federal Aviation Administration has not provided an acceptable response to the board; and

(7) Require the Federal Aviation Administration to subject commercial air tour operators to certain regulations relating to commercial aircraft operators, instead of regulations relating to non-commercial aircraft operators; and

WHEREAS, on January 31, 2020, the United States Senate Committee on Commerce, Science and Transportation released a report entitled, "Whistleblower Allegations of Misconduct at the FAA Flight Standards District Office in Honolulu, Hawaii", outlining multiple whistleblower claims of inadequate safety regulation of tour helicopters, specifically including those involved in the fatal crashes in Kailua on April 29, 2019, and on Kauai on December 27, 2019; and

WHEREAS, the City Council of the City and County of Honolulu and nineteen of Oahu's neighborhood boards have taken official actions to urge the federal government to act to address the disruptions and dangers posed by tour helicopter and small aircraft operations; and

WHEREAS, the lack of effective federal regulations and the lack of effective self-regulation by the tour helicopter and small aircraft industry poses a significant and growing threat to the safety, health, and well-being of the nation and the State; now, therefore,

BE IT RESOLVED by the House of Representatives of the Thirtieth Legislature of the State of Hawaii, Regular Session of 2020, the Senate concurring, that the United States Congress, the Federal Aviation Administration, and the Hawaii Department of Transportation are urged to take every action necessary to address rapidly increasing safety risks and community disruption resulting from insufficient regulation of rapidly increasing operations of tour helicopters and small aircraft throughout Hawaii skies; and
BE IT FURTHER RESOLVED that the United States Congress is urged to promptly enact the proposed Safe and Quiet Skies Act of 2019; and

BE IT FURTHER RESOLVED that the Hawaii Department of Transportation and Federal Aviation Administration are urged to:

(1) Pursue existing remedies to limit community disruption through the Airport Noise and Capacity Act of 1990 and title 14 Code of Federal Regulations part 150; and

(2) Immediately release the draft Hawaii Air Tour Common Procedures Manual for public review and comment; and

BE IT FURTHER RESOLVED that the Federal Aviation Administration is urged to:

(1) Implement any recommendations issued by the National Transportation Safety Board concerning operators of commercial aircraft on which the Federal Aviation Administration has not provided an acceptable response to the board;

(2) Fully implement, in concert with the National Park Service, the requirements of the National Park Air Tour Management Act of 2000 with respect to all applicable Hawaii parks and other relevant areas; and

(3) Immediately and fully investigate whistleblowers' claims with respect to the Honolulu Flight Standards District Office's implementation of safety requirements; and

BE IT FURTHER RESOLVED that the Hawaii Air Noise and Safety Task Force is urged to immediately open its deliberations for public comment and participation; and

BE IT FURTHER RESOLVED that federal, state, and county elected and administrative officials are urged to pursue the foregoing actions, the enactment of legislation to authorize state and local governments to regulate helicopter and small aircraft operations, and all other actions that will enhance
safety and prevent community disruption by Hawaii tour
helicopter and small aircraft operations; and

BE IT FURTHER RESOLVED that certified copies of this
Concurrent Resolution be transmitted to the Speaker of the House
of the United States House of Representatives; Majority Leader
of the United States Senate; members of Hawaii's Congressional
delegation; Administrator of the Federal Aviation
Administration; Manager of the Honolulu Flight Standards
District Office of the Federal Aviation Administration; Chairman
of the National Transportation Safety Board; Director of the
National Park Service; Hawaii Director of Transportation; mayor
of each county; chair of each neighborhood board; and Co-chairs
of the Hawaii Air Noise and Safety Task Force.

OFFERED BY: __________________________

MAR 06 2020