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Statement of
MIKE MCCARTNEY
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Department of Business, Economic Development, and Tourism
before the

HOUSE COMMITTEE ON CULTURE, ARTS & INTERNATIONAL AFFAIRS

Wednesday, April 7, 2021
10:00 AM
State Capitol, Conference Room 329

In consideration of
SCR 243 SD1

**REQUESTING THE LEGISLATIVE REFERENCE BUREAU TO CONDUCT A
STUDY TO CREATE A STATUTORY DEFINITION OF CREATIVE WORKERS AND
DEVELOP RECOMMENDATIONS ON HOW THE TRANSIENT ACCOMMODATIONS
TAX MAY BE USED TO ASSIST CREATIVE WORKERS.**

Chair Gates, Vice Chair LoPresti and members of the Committee.

The Department of Business, Economic Development and Tourism (DBEDT) supports SCR 243 SD1 which requests the Legislative Reference Bureau to conduct a study to establish a statutory definition of “creative workers” and to develop recommendations on how the transient accommodations tax may be used to assist this sector which represents Hawaii’s creative economy.

The proposed study will help further define the role this sector plays as a key facet of our state’s economic recovery and resiliency. As noted in the 2020 DBEDT Emerging Industries reports, the creative sectors represent over 54,000 individuals and small businesses which contributed \$4.2 billion to the State’s GDP in 2019. Unfortunately many of these artists, cultural artisans, musicians, media makers and designers have been disproportionately affected financially due to the pandemic.

According to the June 2020 report by Brookings Institute, *The LOST ART: MEASURING COVID-19’s DEVASTATING IMPACT ON AMERICAS CREATIVE*

ECONOMY, the creative economy is one of the sectors most at risk from the COVID-19 crisis. It also notes that the State of Hawaii has been identified as one of the top 5 States with a creative sector that has been affected with job and revenue losses greater than the national average of 30.3%.

For these reasons, DBEDT welcomes the opportunity to work with the LRB, sister agencies and the community, sharing insights through our Creative Industries Division experience in these sectors.

DBEDT also welcomes the opportunity to work with the LRB and the task force to provide guidance regarding the development of general definitions of “creative work” and “creative workers”, using as a foundation, the definitions provided by the nation’s leading arts organizations including the Americans For The Arts (AFTA), Western States Arts Federation (WESTAF), the Brookings Institution, and the National Endowment for the Arts (NEA), as well as from cities, states and countries throughout the world that have established definitions for the workers that comprise their creative economies.

Thank you for the opportunity to testify.

Charlotte A. Carter-Yamauchi
Director

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First Assistant

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LEGISLATIVE REFERENCE BUREAU
State of Hawaii
State Capitol, Room 446
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Written Comments

SCR243, SD1

REQUESTING THE LEGISLATIVE REFERENCE BUREAU TO CONDUCT A STUDY AND DEVELOP STATUTORY DEFINITIONS OF "CREATIVE WORK" AND "CREATIVE WORKERS" BY TAKING INTO CONSIDERATION HAWAII'S EXISTING CREATIVE WORK INDUSTRY, AS GROUNDWORK FOR THE LEGISLATURE TO ADOPT MEASURES TO SUPPORT HAWAII'S CREATIVE WORKERS

Charlotte A. Carter-Yamauchi, Director
Legislative Reference Bureau

Presented to the House Committee on Culture, Arts, & International Affairs

Wednesday, April 7, 2021, 10:00 a.m.
Conference Room 329

Chair Gates and Members of the Committee:

Good morning Chair Gates and members of the Committee. My name is Charlotte Carter-Yamauchi, and I am the Director of the Legislative Reference Bureau. Thank you for providing the opportunity to submit written **comments** on S.C.R. 243, S.D. 1, Requesting the Legislative Reference Bureau to Conduct a Study and Develop Statutory Definitions of "Creative Work" and "Creative Workers" By Taking into Consideration Hawaii's Existing Creative Work Industry, as Groundwork for the Legislature to Adopt Measures to Support Hawaii's Creative Workers.

The purpose of the measure is to request the Legislative Reference Bureau to conduct a study and develop statutory definitions of "creative work" and "creative workers" by taking into consideration Hawaii's existing creative work industry, as groundwork for the Legislature to adopt measures to support Hawaii's creative workers. The measure also specifically requests that the statutory definition of the term "creative workers" include painters, sculptors, ceramicists, writers, poets, photographers, film makers, visual artists, singers, composers, musicians, lyricists, choreographers, dancers, actors, and other performing artists. The

measure urges the Bureau, when conducting the study, to consult with the Department of Business, Economic Development, and Tourism; Department of Taxation; Department of Commerce and Consumer Affairs; Department of Labor and Industrial Relations; Hawaii Tourism Authority; State Foundation on Culture and the Arts; and Hawai'i Alliance for Arts Education.

The measure further requests that the Bureau submit a report of its findings and recommendations, including any proposed legislation, to the Legislature no later than twenty days prior to the convening of the Regular Session of 2022.

The Bureau takes no position on the merits of this measure but submits the following comments for your consideration.

The Bureau notes that it lacks any specific expertise or particular experience in matters relating to creative work, creative workers, arts, artists, grants, or other financial support. Accordingly, it is unlikely that the Bureau would be able to respond with any authoritative recommendations on what definitions of "creative work" and "creative workers" should be inserted into the Hawaii Revised Statutes, especially for the purpose of providing financial support to those workers.

We note for the Committee's consideration that the State Foundation of Culture and the Arts, which is governed by the State Foundation on Culture and the Arts Commission, has extensive experience administering financial support for the arts and to artists. Further, pursuant to section 9-3(5), Hawaii Revised Statutes, one of the statutory duties of the Foundation is to "[d]evelop and recommend legislative and administrative action for the preservation and furtherance of culture and the arts and history and the humanities." Pursuant to section 9-1, Hawaii Revised Statutes, the definition of the term "arts" for the purposes of the Foundation's responsibilities "includes music, dance, painting, drawing, sculpture, architecture, drama, poetry, prose, crafts, industrial design, interior design, fashion design, photography, television, motion picture art, unique or decorative plants, landscaping, and all other creative activity of imagination and beauty." Although the Hawaii Revised Statutes does not currently contain a definition of "creative work," it appears that the foregoing existing definition of the term "arts" effectively serves as a functionally equivalent definition of "creative work."

Since 1989, the Foundation has shared responsibility with the Comptroller in acquiring art funded by the works of art special fund created pursuant to section 103-8.5, Hawaii Revised Statutes. Since 1992, the Foundation has administered a foundation grant program, pursuant to Chapter 9, Part II, Hawaii Revised Statutes. Since 2004, the Foundation has been responsible for administering the art in public places program, the relocatable works of art program, and the state art museum. Perhaps the most relevant artist support program for the purpose of this measure is the individual artist fellowship program. Since 1993, the Foundation has been responsible for that program, pursuant to section 9-3,

Hawaii Revised Statutes. Pursuant to section 9-6, Hawaii Revised Statutes, to qualify for a fellowship, an artist is required to meet all of the following standards:

- (1) The individual has proof of United States citizenship or permanent United States resident alien status and is a resident of the State of Hawaii at the time of application;
- (2) The individual is a recognized professional artist who:
 - (A) Engages in a particular art form or discipline as a result of education, experience, or natural talent; and
 - (B) Is financially compensated for engaging in the art form or discipline as part of the individual's livelihood; and
- (3) The individual is able to provide documentation of having engaged in artistic endeavors for at least five years prior to the time of application.

Further, pursuant to section 9-7, Hawaii Revised Statutes, an artist who receives an individual artist fellowship from the Foundation "is required to hold an exhibition or give a performance for the benefit of the people of Hawaii." Although the Hawaii Revised Statutes does not currently contain a definitions "creative worker," it appears that the foregoing standards for an artist to receive an individual artist fellowship serve as functionally equivalent standards to be a "creative worker."

Based on the foregoing, and especially given the State Foundation of Culture and the Arts' statutory duty to recommend legislative action for the preservation and furtherance of the arts, it appears more appropriate for the Foundation to conduct the study, and we recommend the measure be amended to reassign responsibility for the study to the Foundation. We also recommend that the Committee consider whether to further amend the measure to include in the Foundation's study the extent to which existing law, particularly sections 9-1, 9-6, and 9-7, Hawaii Revised Statutes, should be amended to facilitate the support of creative workers in the State.

If the measure is amended in this manner and the Committee desires to keep the Bureau involved, we would respectfully request that the measure be further amended to have the Bureau assist with only the drafting of any proposed legislation that may be a product of the findings and recommendations of the State Foundation of Culture and the Arts. Further, we would ask that the Foundation submit to the Bureau by November 1, 2021, any draft documents for the proposed legislation to allow us adequate time to prepare bill drafts. The Bureau believes that such alternative assistance would be manageable, provided that the Bureau's interim workload is not adversely impacted by too many other studies or additional responsibilities, such as conducting, writing, or finalizing other reports, drafting legislation, or

both, for other state agencies, task forces, or working groups that may be requested or required under other legislative measures.

Thank you again for the opportunity to submit written comments.



HAWAII

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CULTURE and the ARTS

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**TESTIMONY OF THE STATE FOUNDATION ON CULTURE AND THE ARTS
TO THE HOUSE COMMITTEE ON CULTURE, ARTS & INTERNATIONAL AFFAIRS
Wednesday, April 7, 2021 at 10:00 a.m. CR 329 via Videoconference
S.C.R. 243 SD1**

**REQUESTING THE LEGISLATIVE REFERENCE BUREAU TO CONDUCT A STUDY
AND DEVELOP STATUTORY DEFINITIONS OF "CREATIVE WORK" AND "CREATIVE
WORKERS" BY TAKING INTO CONSIDERATION HAWAII'S EXISTING CREATIVE
WORK INDUSTRY, AS GROUNDWORK FOR THE LEGISLATURE TO ADOPT
MEASURES TO SUPPORT HAWAII'S CREATIVE WORKERS.**

Chair Gates, Chair and members of the Committees, the State Foundation on Culture and the Arts (SFCA), **SUPPORTS** S.C.R. 243 SD1.

The purpose of this measure is to request the Legislative Reference Bureau to conduct a study to create a statutory definition of creative workers and urges the Bureau, when conducting the study, to consult with the Department of Business, Economic Development, and Tourism; Department of Taxation; Department of Commerce and Consumer Affairs; Department of Labor and Industrial Relations; Hawaii Tourism Authority; Hawaii State Foundation on Culture and the Arts; and Hawaii Arts Alliance.

The State Foundation on Culture and the Arts welcomes the opportunity to lend our expertise in identifying support for this important resource of our State.

Thank you for the opportunity to submit testimony on this matter.

Hawai'i
Arts
Alliance



*Affiliated with the
Wolf Trap Institute for Early
Childhood Arts Integration*

*State Captain –
Americans for the Arts*

*Member of State Arts
Advocacy Network*

April 5, 2021

Rep. Gates, Chair
Committee on Culture, Arts & International Affairs

RE: SCR243 REQUESTING THE LEGISLATIVE REFERENCE BUREAU TO CONDUCT A STUDY
TO CREATE A STATUTORY DEFINITION OF CREATIVE WORKERS

Aloha Rep. Gates and Committee Members,

I am writing in **SUPPORT of SCR243** to create a statutory definition of creative workers in Hawai'i. The definition needs to be broad and encompassing such that it includes traditional artists often labeled as folk artists in addition to artists labeled fine artists. Such definitions are a matter of perspective. Creative workers come from all ethnic groups and classes in Hawaii that broadly includes dance, drama, media arts, music, poetry, performance arts, theater, and visual arts.

The Creative sector has been devastated by COVID and many artists have not been able to get unemployment or PUA when it was available last year. By defining CREATIVE WORKER and using the transient accommodations funds to help support creative workers, the state would help the creative sector recover. To date, nothing has been done for the creative workers. The focus of CARES/PPP funds have been on at the institutional levels and with tourism in mind but not the gig or contract workers who are employed by institutions, hotels, restaurants, and tourist venues.

Mahalo for the opportunity to submit testimony and mahalo for your work in support of the creative sector.

Sincerely,

Teri Skillman
Executive Director

Creatives are 2nd Responders and Essential Workers.

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SCR-243-SD-1

Submitted on: 4/5/2021 3:41:49 PM

Testimony for CAI on 4/7/2021 10:00:00 AM

| Submitted By | Organization | Testifier Position | Present at Hearing |
|---------------------|---------------------|---------------------------|---------------------------|
| NICOLE L CRISTOBAL | Kamawaelualani Corp | Support | No |

Comments:

I support Bill SCR242

SCR-243-SD-1

Submitted on: 4/6/2021 11:34:38 AM

Testimony for CAI on 4/7/2021 10:00:00 AM

| Submitted By | Organization | Testifier Position | Present at Hearing |
|---------------------|--------------------------------|---------------------------|---------------------------|
| Tara Gumapac | Arts and Culture, Education | Support | No |

Comments:

I support SCR243. As an Artist and Educator creative individuals are critical to a society. Creativity not only fosters and enhances cultures, but it preserves knowledge and understanding of how a culture thrives. There are multiple avenues to creative processes for artists and artists need to be supported in their societies and not scraping by with no insurance. More spaces within the community should become available for artists to create co-ops and knowledge needs to be passed down within the arts, especially within Hawaiian cultural traditions. If there is ever need for kokua, I am more than willing to help.

SCR-243-SD-1

Submitted on: 4/5/2021 1:11:52 PM

Testimony for CAI on 4/7/2021 10:00:00 AM

| Submitted By | Organization | Testifier Position | Present at Hearing |
|---------------------|---------------------|---------------------------|---------------------------|
| George S Kon | Individual | Support | No |

Comments:

I support Bill SCR243

SCR-243-SD-1

Submitted on: 4/5/2021 1:19:19 PM

Testimony for CAI on 4/7/2021 10:00:00 AM

| Submitted By | Organization | Testifier Position | Present at Hearing |
|---------------------|---------------------|---------------------------|---------------------------|
| Chenta Laury | Individual | Support | No |

Comments:

I whole-heartedly support Bill SCR243!

SCR-243-SD-1

Submitted on: 4/5/2021 1:49:09 PM

Testimony for CAI on 4/7/2021 10:00:00 AM

| Submitted By | Organization | Testifier Position | Present at Hearing |
|---------------------|---------------------|---------------------------|---------------------------|
| Ricardo D Trimillos | Individual | Support | No |

Comments:

SCR243 is important to the arts community. The arts community provides much of the culture that comprises the quality of life that is important to the wellbeing of the local population and is a central attraction for the visitor industry. The articulation of "creative work" and "creative workers" will protect this important resource and support its sustainability.