

STAND. COM. REP. NO. 1433

Honolulu, Hawaii

MAR 29 2023

RE: S.C.R. No. 191
S.D. 1

Honorable Ronald D. Kouchi
President of the Senate
Thirty-Second State Legislature
Regular Session of 2023
State of Hawaii

Sir:

Your Committee on Hawaiian Affairs, to which was referred S.C.R. No. 191 entitled:

"SENATE CONCURRENT RESOLUTION URGING THE ESTABLISHMENT OF A NATIVE HAWAIIAN INTELLECTUAL PROPERTY WORKING GROUP TO DISCUSS POLICIES AND LEGISLATION WITH RESPECT TO NATIVE HAWAIIAN INTELLECTUAL PROPERTY,"

begs leave to report as follows:

The purpose and intent of this measure is to urge the establishment of a Native Hawaiian Intellectual Property Working Group to discuss policies and legislation with respect to Native Hawaiian intellectual property.

Your Committee received testimony in support of this measure from the Department of Business, Economic Development, and Tourism; Waimea Hawaiian Civic Club; and twelve individuals.

Your Committee finds that Native Hawaiians possess collective intellectual property rights derived from the traditional and cultural practices that their ancestors developed over thousands of years and passed down from generation to generation. This collective intellectual property takes many forms and includes but is not limited to ka 'ōlelo Hawai'i, hula, mele, mo'olelo, lei making, kapa making, kākau, weaving, feather work, carving, and wayfinding. Your Committee further finds that as legal disputes between Native Hawaiians and third-party users of indigenous



knowledge have increased -- including the recent incident where a non-Hawaiian food chain in Chicago, Aloha Poke Co., issued cease-and-desist letters to poke food businesses in Hawaii seeking to prevent their use of the words "Aloha" and "Poke" in a blatant attempt to claim ownership of these Native Hawaiian cultural expressions -- a working group is necessary to investigate and discuss how Native Hawaiian groups can best protect their collective intellectual property rights.

Your Committee has amended this measure by:

- (1) Inserting additional findings relating to the 2003 Paoakalani Declaration compiled at the Native Hawaiian Intellectual Property Rights Conference and the 2021 ratification of the *Huamakahikina Declaration on the Integrity, Stewardship, and Protection of Hula*;
- (2) Adding the Association of Hawaiian Civic Clubs to the Native Hawaiian Intellectual Property Working Group;
- (3) Requesting that the Native Hawaiian Intellectual Property Working Group consult with the Creative Industries Division of the Department of Business, Economic Development, and Tourism, in addition to other Native Hawaiian communities and organizations deemed appropriate;
- (4) Requesting the Native Hawaiian Intellectual Property Working Group members and the named organizations and entities to have discretion to include additional Native Hawaiian organizations and entities through consensus;
- (5) Requesting the Native Hawaiian Intellectual Property Working Group to monitor the upcoming, June 5-9, 2023, forty-seventh session of the World Intellectual Property Organization's Intergovernmental Committee on Intellectual Property and Genetic Resources, Traditional Knowledge and Folklore;
- (6) Adding the President of the Association of Hawaiian Civic Clubs and the Director of the Department of Business, Economic Development, and Tourism to the list of certified copy recipients; and




- (7) Making technical, nonsubstantive amendments for the purposes of clarity and consistency.

Lastly, your Committee notes that testifiers in support requested that Native Hawaiians be granted continued access to, and use of, any traditional or new intellectual property designated as Native Hawaiian intellectual property by the Working Group.

As affirmed by the record of votes of the members of your Committee on Hawaiian Affairs that is attached to this report, your Committee concurs with the intent and purpose of S.C.R. No. 191, as amended herein, and recommends its adoption in the form attached hereto as S.C.R. No. 191, S.D. 1.

Respectfully submitted on
behalf of the members of the
Committee on Hawaiian Affairs,

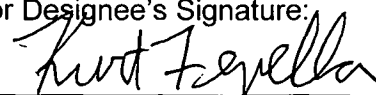


MAILE S.L. SHIMABUKURO, Chair



The Senate
 Thirty-Second Legislature
 State of Hawai'i

Record of Votes
Committee on Hawaiian Affairs
HWN

Bill / Resolution No.:*	Committee Referral:	Date:		
SCR 191	HWN	MARCH 21, 2023		
<input type="checkbox"/> The Committee is reconsidering its previous decision on this measure. If so, then the previous decision was to: _____				
The Recommendation is:				
<input type="checkbox"/> Pass, unamended 2312 <input checked="" type="checkbox"/> Pass, with amendments 2311 <input type="checkbox"/> Hold 2310 <input type="checkbox"/> Recommit 2313				
Members	Aye	Aye (WR)	Nay	Excused
SHIMABUKURO, Maile S.L. (C)	X			
FEVELLA, Kurt (VC)	X			
IHARA, Jr., Les	X			
KEOHOKALOLE, Jarrett	X			
RICHARDS, III, Herbert M. "Tim"	X			
TOTAL	5	-	-	-
Recommendation: <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> 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