

STAND. COM. REP. NO.

2493

Honolulu, Hawaii

FEB 16 2018

RE: S.B. No. 2687  
S.D. 1

Honorable Ronald D. Kouchi  
President of the Senate  
Twenty-Ninth State Legislature  
Regular Session of 2018  
State of Hawaii

Sir:

Your Committees on Hawaiian Affairs, Higher Education, and Judiciary, to which was referred S.B. No. 2687 entitled:

"A BILL FOR AN ACT RELATING TO HAWAIIAN LANGUAGE,"

beg leave to report as follows:

The purpose and intent of this measure is to appropriate funds to the University of Hawaii to translate the Hawaii State Constitution into the Hawaiian language.

Prior to the public hearing on this measure, your Committees posted on the Legislature's website for public review and input a proposed S.D. 1 draft (Proposed Draft), and notified the public that your Committees would be accepting testimony on this draft. The Proposed Draft included a Part II to the measure that would add a new section to chapter 601, Hawaii Revised Statutes, to require a court to provide interpreter services if any party to a proceeding requests that the proceeding be conducted in the Hawaiian language.

Your Committees received testimony in support of the Proposed Draft from the Judiciary, Office of Hawaiian Affairs, University of Hawaii System, University of Hawaii at Hilo, fourteen members of 'Aha Pūnana Leo, 'Ahahui Siwila 'o Ke Aloha 'Aina, Hawai'i Center for Food Safety, Hawaiian Civic Club of Honolulu, Ho'omanapono, LLC, Ho'omanapono Political Action Committee, Ka Lāhui Hawai'i Political Action Committee, Keaukaha General Store, Kuamoo Foundation, Lost Kingdom Klothng, National Coalition of Native



American Language Schools and Programs, and one hundred forty-three individuals.

Your Committees received testimony in opposition to the Proposed Draft from the Center for Hawaiian Sovereignty Studies.

Your Committees received comments on the Proposed Draft from the Maui Department of the Prosecuting Attorney and three individuals.

Your Committees are keenly aware that during a dark chapter in Hawaii's history, use of the Hawaiian language was banned in public and private schools in 1896; teachers were subject to termination of employment for speaking Hawaiian with students, and students were punished for speaking Hawaiian at school. Use of the Hawaiian language was also prohibited for government business by the Organic Act of 1900. The Hawaiian language, Hawaiian culture, and Native Hawaiian ancestry came to be viewed negatively, relative to the Western culture of Hawaii's colonizers. Although the Hawaiian cultural renaissance and Constitutional Convention of 1978 helped Native Hawaiians reclaim their dignity by, among other things, recognizing Hawaiian as an official language of the State, establishing the Office of Hawaiian Affairs, and laying the groundwork for the return of Kahoolawe as a cultural resource to the State, the Hawaiian language itself was on a path to extinction. In 1978, there were only approximately two thousand Hawaiian speakers left. By the 1980s, the number of fluent Hawaiian speakers under the age of eighteen had dwindled to fifty.

The tide began to turn when concerned parents, who realized the Hawaiian language would die if not passed on to the next generation, created the 'Aha Pūnana Leo Hawaiian language immersion preschools. The first such school opened in 1984, two more followed in 1985, and twelve preschools and two infant-toddler programs that span five islands exist today. Other significant developments include: the Department of Education's establishment of a Hawaiian Language Immersion Program in 1986 that currently offers Hawaiian language instruction for grades K-12; the University of Hawaii at Manoa's Kawaihuelani Center for Hawaiian Language that offers undergraduate and graduate degree programs in Hawaiian and training of teachers for Hawaiian language immersion schools; and the University of Hawaii at Hilo's Ka Haka 'Ula O



Ke'elikōlani College of Hawaiian Language that has the distinction of being the world's first college to provide instruction through a Hawaiian language medium.

Your Committees find that existing constitutional and statutory provisions illustrate the importance of the Hawaiian language in the State and justify its expanded use in official government settings. These provisions include:

- (1) Enactment of Act 207, Session Laws of Hawaii 1978, which established 'Ōlelo Hawai'i, the Hawaiian language, as the native language of Hawaii. See section 5-6.5, Hawaii Revised Statutes;
- (2) Recognition of the Hawaiian language as an official language of the State. See Article XV, section 4, of the Constitution of the State of Hawaii;
- (3) Requiring the State to promote "the study of Hawaiian culture, history and language" and provide for a Hawaiian education program and using community expertise "as a suitable and essential means in furtherance of the Hawaiian education program." See Article X, section 4, of the Constitution of the State of Hawaii;
- (4) Recognition by Congress that the right of Native Hawaiians to "express themselves" through the use of the Hawaiian language "*shall not be restricted in any public proceeding, including publicly supported education programs*" (italic emphasis added). See Native American Languages Act of 1990, 25 U.S.C. 2901 et seq.;
- (5) Affirmation by the Legislature in 1992 of the importance of the Hawaiian language in government, by authorizing the use of kahakō and 'okina in documents prepared by and for the government, its agencies, and its officials. See section 1-13.5, Hawaii Revised Statutes; and
- (6) Designation of February as Mahina 'Ōlelo Hawai'i or Hawaiian Language Month via Act 28, Session Laws of Hawaii 2013, which was the first law to be introduced, enacted, and published in 'Ōlelo Hawai'i since 1943. See section 8-24, Hawaii Revised Statutes.



Your Committees also find that while there is renewed interest in studying the Hawaiian language and ample opportunities exist to do so in academic settings today, the State's legal infrastructure has not kept pace with the ever-growing population of Hawaiian language speakers. A well-publicized example is the recent incident on Maui involving an associate professor of Hawaiian Studies at the University of Hawaii Maui College who was penalized by the court for expressing himself in Hawaiian during criminal proceedings that arose from his participation in a protest against construction of the Daniel K. Inouye Solar Telescope atop Haleakala. A warrant was issued for the associate professor's arrest when he refused to identify himself on the record in English and spoke in Hawaiian instead. The warrant was later withdrawn.

Your Committees further find that, historically, Hawaiian language speakers were accommodated by the Judiciary. Although the use of English had become increasingly prevalent in Hawaii's courts by 1876, Hawaiian translations of English language indictments were provided upon request, and foreigners appointed to district judgeships were required to be proficient in the Hawaiian language. It was not until the Organic Act of 1900, when persons who were not proficient in English were disqualified from jury service, that English became the exclusive de facto language of the court system.

Your Committees recognize that the State's modern-day Judiciary has been respectful of the Hawaiian culture and has begun to modernize legal infrastructure to support the use of Hawaiian in the courts. A recent example is the work of the Judiciary's Hawaiian Language Web Feasibility Task Force and its 2015 report to the Legislature that identified a number of ways the Judiciary can be more responsive to the needs of Hawaiian language speakers. Your Committees also recognize and appreciate the Judiciary's policy as of January 26, 2018, to ensure that an interpreter may be used in court proceedings when a party wishes to communicate in Hawaiian. Accordingly, your Committees find that the passage of this Act is consistent with prior precedents and furthers the goal of providing Hawaiian language speakers meaningful opportunities to conduct official business in Hawaiian.



Moreover, your Committees find that, in order to give the Hawaiian language genuine co-equal status with English, the State must create meaningful opportunities for use of Hawaiian in public life, especially in the arena of civic engagement; otherwise, its constitutional status as an official language of the State amounts to nothing more than mere tokenism.

Your Committees have amended this measure by adopting the Proposed Draft with the following further amendments:

- (1) Deleting a reference in the measure's preamble to the State Constitution being published in the English language;
- (2) Clarifying that the requirement that courts provide interpreter services, if any party to a proceeding requests that the proceeding be conducted in the Hawaiian language, applies to the extent reasonably possible;
- (3) Adding an appropriation for the establishment of one full-time equivalent, civil service exempt position in the Judiciary to provide interpreter services in the Hawaiian language; and
- (4) Making technical nonsubstantive changes for purposes of clarity, consistency, and style.

Your Committees intend that the Hawaiian language interpreter services provided for in this measure be utilized by bona fide speakers of the Hawaiian language.

As affirmed by the records of votes of the members of your Committees on Hawaiian Affairs, Higher Education, and Judiciary that are attached to this report, your Committees are in accord with the intent and purpose of S.B. No. 2687, as amended herein, and recommend that it pass Second Reading in the form attached hereto as S.B. No. 2687, S.D. 1, and be referred to your Committee on Ways and Means.



Respectfully submitted on  
behalf of the members of the  
Committees on Hawaiian Affairs,  
Higher Education, and  
Judiciary,



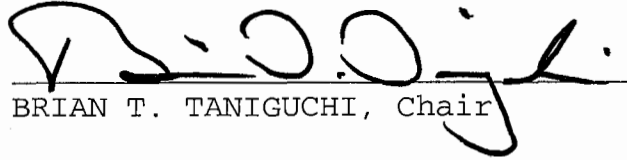
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KAIALANA KAHLE, Chair



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MAILE S.L. SHIMABUKURO, Chair



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BRIAN T. TANIGUCHI, Chair



The Senate  
 Twenty-Ninth Legislature  
 State of Hawai'i

**Record of Votes**  
**Committee on Hawaiian Affairs**  
**HWN**

Bill / Resolution No.:* <b>SB 2687</b>	Committee Referral: <b>HWN/HRE/JOC, NAM</b>	Date: <b>30 / 18</b>		
<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)	✓			
GALUTERIA, Brickwood (VC)	✓			
ENGLISH, J. Kalani	✓			
GREEN, Josh	✓			
RIVIERE, Gil	✓			
<b>TOTAL</b>	<b>5</b>			
Recommendation: <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted				
Chair's or Designee's Signature:				
<b>Distribution:</b> Original     Yellow     Pink     Goldenrod File with Committee Report   Clerk's Office   Drafting Agency   Committee File Copy				

\*Only one measure per Record of Votes





