

MAR 14 2012

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## SENATE CONCURRENT RESOLUTION

URGING THE DEPARTMENT OF LAND AND NATURAL RESOURCES TO ADOPT RULES TO REGULATE AND CONTROL OPIHI HARVESTING TO ALLOW OPIHI STOCKS TO NATURALLY REPLENISH THEMSELVES AND SUPPORT SUSTAINABLE HARVESTING AND TO ANNUALLY REPORT ON ITS EFFORTS TO REPLENISH OPIHI STOCKS, THE EFFECTIVENESS OF THESE EFFORTS, AND RECOMMENDATIONS AND PROPOSED LEGISLATION FOR IMPROVEMENT.

1           WHEREAS, opihi comprises four species of saltwater Hawaiian  
2 limpets that are found nowhere else on earth; and

3  
4           WHEREAS, these four species of opihi include:

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6           (1) The blackfoot opihi (*Cellana exarata*), also known as  
7 "opihi makaiauli," found on the upper portion of wave  
8 washed intertidal shores from Puhahonu (Gardner  
9 Pinnacles) to the island of Hawaii;

10  
11           (2) The yellowfoot opihi (*Cellana sandwicensis*), also  
12 known as "opihi alinalina," found on the middle-low  
13 portion of wave washed intertidal shores from  
14 Mokupapapa (French Frigate Shoals) to the island of  
15 Hawaii;

16  
17           (3) Opihi koele (*Cellana talcosa*), also known as the  
18 "kneecap" opihi, found from the shallow subtidal to  
19 the middle intertidal zone on shores from Niihau and  
20 Kauai to Hawaii; and

21  
22           (4) The greenfoot opihi (*Cellana melanostoma*), commonly  
23 observed through the intertidal zone from Puhahonu to  
24 Nihoa, and less commonly observed in the main Hawaiian  
25 Islands; and  
26



1           WHEREAS, opihi picking is a dangerous activity, as  
2 recognized by the native Hawaiian saying, "*he i'a make ka*  
3 *'opihī*", meaning "opihī is the fish of death"; and  
4

5           WHEREAS, between April 1999 and September 2001, there have  
6 been fifteen reported deaths resulting from the pursuit of  
7 finding and picking opihi from Hawaii's hazardous and  
8 unpredictable coastal areas; and  
9

10          WHEREAS, on April 30, 1999, Anthony Jeremy Ancheta, age  
11 twenty-seven, of Paauhau, died picking opihi and was survived by  
12 son Reyn Maria, father Tony, mother Frances, brother Troy L.,  
13 sisters Jodell K. and Jolene K., and grandfather Candido; and  
14

15          WHEREAS, on December 30, 2000, Arthur Z. Anderson, age  
16 forty-two, of Kurtistown, died when he hit his head on rocks and  
17 drowned while picking opihi on the shoreline at Kawa Bay in Ka'u;  
18 and  
19

20          WHEREAS, on January 20, 2001, Jerry Toshio Nakaya, age  
21 forty-nine, of Honolulu, died after a large wave swept him into  
22 the ocean off Waiahukini Beach and was survived by mother Tsukie  
23 and brother Elmer; and  
24

25          WHEREAS, also in January 2001, Kevin Higa, age thirty-six,  
26 of Hilo, a Kea'au Middle School computer resource teacher, died  
27 picking opihi and was survived by parents Thomas and Doris,  
28 brother Kurt, and grandmother Yoshiko Miyashiro; and  
29

30          WHEREAS, on February 20, 2002, Wilmar Cablay, age thirty-  
31 two, of Maui, died picking opihi and was survived by brother  
32 Arlito and ten year-old son Isaiah; and  
33

34          WHEREAS, a pile of opihi and Wilmar Cablay's bag were found  
35 on the cliffs above the place his body was recovered; and  
36

37          WHEREAS, on May 29, 2002, William Ishizu, age thirty-five,  
38 of Hilo, died picking opihi; and  
39

40          WHEREAS, a family member found the body of William Ishizu  
41 at the bottom of a twenty-foot cliff; and  
42



1           WHEREAS, on March 31, 2003, Dino "Di" Maipoinaoeiau Kaawa,  
2 age eighteen, of Na'alehu, died when he was swept away by a wave  
3 when picking opihi with family members and was survived by  
4 mother Evon; sister Melinda; brother Shawn; grandfathers David  
5 Jr., Nelson Kaupu and McKinley Davis; grandmothers Eleanor  
6 Makida and Marjorie Kaawa; hanai sisters Tanya Silva and Hiilani  
7 Lipe; and hanai brothers Halley, Michael Jordan, Pomai Olson,  
8 Nathaniel Davis, Dason Udac, and David IV; and  
9

10           WHEREAS, on April 15, 2003, Leo Kozlowski Jr., age thirty-  
11 five, of Hilo, a self-employed carpenter, died while picking  
12 opihi and was survived by wife Fran; son Leo A. III; daughter  
13 Kortnee A.; father Leo A. Sr.; mother Renee Neal; brothers  
14 Walter J. Kozlowski and James Mercado; and sisters Karolotta-Ann  
15 Algono, Jamie Pedigo, and Chilli-Rae Soon; and  
16

17           WHEREAS, on January 2, 2007, Leslie DeloSantos, age fifty-  
18 seven, of Onomea, died while picking opihi; and  
19

20           WHEREAS, Leslie DeloSantos' family members last saw him in  
21 late December of 2006, when he left to pick opihi, and his body  
22 was never found; and  
23

24           WHEREAS, on May 10, 2008, David M. Davis, age thirty-seven,  
25 of Kailua-Kona, died when he fell off a three hundred-foot cliff  
26 at the end of Old Cane Haul Road between Ookala and Paauilo  
27 while picking opihi; and  
28

29           WHEREAS, on June 28, 2008, Nathan Libarios, age fifty-  
30 eight, of Kainaliu, an iron worker in the construction industry,  
31 died while picking opihi and was survived by sons Nathan  
32 Libarios and Tevin and Tyron Libarios-Moses; daughters Jermaine  
33 Larsen and Keliko Libarios-Moses; brother Jr.; sisters Patsy  
34 Keawe, Dottie Ariel, and Cheryl Dacalio; and two grandchildren;  
35 and  
36

37           WHEREAS, fire Department rescue divers recovered shorts, an  
38 opihi bag, and human remains with what appeared to be shark bite  
39 marks that were suspected to be those of Nathan Libarios; and  
40

41           WHEREAS, on September 13, 2008, Len Tokuo Nakano, age  
42 fifty-four, of Hilo, a Department of Water Supply electrical-  
43 mechanical supervisor, died when he was swept into a blowhole



1 while picking opihi and was survived by parents Tokuichi and  
2 Fusae; sister Yvonne Heckman; and daughter Sybil Ahmed; and

3  
4 WHEREAS, on September 12, 2009, David Kawika Magallanes,  
5 age forty-four, of Kailua-Kona, disappeared while picking opihi  
6 at Keahole Point; and

7  
8 WHEREAS, on June 22, 2010, Joseph Pacheco, Jr., age forty-  
9 one, of King's Landing, left his home to pick opihi along the  
10 King's Landing coast, and never returned; and

11  
12 WHEREAS, Joseph Pacheco's backpack and dog were found about  
13 a mile south of Shipman Beach and three days later, his remains  
14 were recovered from the ocean about a mile north of Papai Bay;  
15 and

16  
17 WHEREAS, Joseph Pacheco, Jr. was survived by sons Joseph  
18 Pacheco of Berlin and John Pacheco of Clementon; six  
19 grandchildren; mother Dolores Pacheco of West Berlin; brothers  
20 and sisters Marie Schaeffer, Sandy Clark, Janet Pacheco, John  
21 Pacheco, Patty Koerner, and Rob Pacheco; and many loving nieces,  
22 nephews, cousins, and friends; and

23  
24 WHEREAS, on September 14, 2011, Brystan Alidon, age twenty,  
25 of Hilo, a yard service worker, died while picking opihi and was  
26 survived by companion Shontae Agustin; daughter Kiari A. Subia;  
27 parents Frank and Dayle Santos, and Michael and Melissa Alidon;  
28 brothers Frank "Olo" Santos, Bronson Atkins, and Ronson and  
29 Joseph Alidon; sisters Nichole "Kolie" Kekahuna and Justice  
30 Santos; grandparents Iris Oda and Pedro "Papa" Milar, Stanley T.  
31 Oda, and Richard and Harriet Lei Alidon; and great-grandparent  
32 Loretta; and

33  
34 WHEREAS, despite the dangers of this activity, opihi is a  
35 delicacy that holds great cultural importance; and

36  
37 WHEREAS, as such, opihi populations are dwindling due to  
38 popularity and overharvesting; and

39  
40 WHEREAS, the most notable impact is on Oahu where *Cellana*  
41 *exarata* and *Cellana sandwicensis* are rare and *Cellana talcosa* is  
42 functionally absent; and



1 WHEREAS, the key to increasing the sustainable harvest of  
2 opihi populations is protecting a portion of the populations so  
3 that they may reproduce and create the next generation; and  
4

5 WHEREAS, fisheries replenishment and management areas are a  
6 promising management tool to protect breeding populations while  
7 allowing harvest in unprotected areas; and  
8

9 WHEREAS, the life history characteristics of opihi are  
10 perfectly suited to this management strategy because the adults  
11 will stay within the protected areas, and the opihi larvae can  
12 disperse throughout an island and replenish both harvested and  
13 protected areas; and  
14

15 WHEREAS, the Division of Aquatic Resources of the  
16 Department of Land and Natural Resources manages the State's  
17 aquatic resources and ecosystems through programs in commercial  
18 fisheries and resource enhancement; aquatic resources  
19 protection, habitat enhancement, and education; and recreational  
20 fisheries; and  
21

22 WHEREAS, the Division's major program areas include  
23 projects to manage or enhance fisheries for long-term  
24 sustainability of the resources, protect and restore the aquatic  
25 environment, protect native and resident aquatic species and  
26 their habitat, and provide facilities and opportunities for  
27 recreational fishing; and  
28

29 WHEREAS, the Department of Land and Natural Resources,  
30 through its rulemaking authority, is the appropriate agency to  
31 oversee the rehabilitation of the natural populations of all  
32 Hawaiian opihi species and establish a new direction for the  
33 management of the fishery; now, therefore,  
34

35 BE IT RESOLVED by the Senate of the Twenty-sixth  
36 Legislature of the State of Hawaii, Regular Session of 2012, the  
37 House of Representatives concurring, that the Department of Land  
38 and Natural Resources is urged to adopt rules in accordance to  
39 chapter 91, Hawaii Revised Statutes, to regulate and control  
40 opihi harvesting, so that the opihi stocks may naturally  
41 replenish themselves and support sustainable harvesting; and  
42

43 BE IT FURTHER RESOLVED that the rules adopted by the  
44 Department of Land and Natural Resources apply to all known



1 Hawaiian opihi, including *Cellana exarata* (blackfoot), *Cellana*  
2 *sandwicensis* (yellowfoot), *Cellana talcosa* (koele), and *Cellana*  
3 *melanostoma* (greenfoot); and

4  
5 BE IT FURTHER RESOLVED that the rules adopted also  
6 accomplish the following:

- 7  
8 (1) Restrict at any time the taking, harvesting, or  
9 possessing of opihi from off-shore islets in the  
10 State, including those islands listed in the Atlas of  
11 Hawaii, Third Edition (1998), man-made jetties and  
12 breakwaters, fishery management areas, fisheries  
13 replenishment areas, natural area reserves, refuges,  
14 and marine life conservation districts established by  
15 the Division of Aquatic Resources of the Department of  
16 Land and Natural Resources;
- 17  
18 (2) Restrict at any time the taking, harvesting, or  
19 possessing of opihi from below the waterline of any  
20 coastal area or nearshore waters of the islands of the  
21 State;
- 22  
23 (3) Restrict during closed seasons the taking, harvesting,  
24 or possessing of opihi from above the waterline of the  
25 coastal areas or nearshore waters of the islands;  
26 provided that the closed seasons be determined jointly  
27 by the Division of Aquatic Resources of the Department  
28 of Land and Natural Resources and the Hawaii Institute  
29 of Marine Biology of the University of Hawaii;
- 30  
31 (4) Allow the Kahoolawe Island Reserve Commission to  
32 govern the taking, harvesting, and possessing of opihi  
33 in the Kahoolawe Island Reserve, including the islands  
34 of Puukoae and Aleale;
- 35  
36 (5) Recognize individuals who are exercising Native  
37 Hawaiian gathering rights and traditional practices as  
38 authorized by law, or as permitted by the Department  
39 of Land and Natural Resources pursuant to article XII,  
40 section 7, of the Hawaii State Constitution, by  
41 allowing these individuals to take, harvest, and  
42 possess opihi only for those purposes; and  
43



- 1 (6) Establish a five-year moratorium on the taking or
- 2 harvesting of opihi from the coastal areas or
- 3 nearshore areas of the island of Oahu; and
- 4

5 BE IT FURTHER RESOLVED that the Department of Land and  
6 Natural Resources is requested to submit to the Legislature no  
7 later than twenty days prior to the convening of the Regular  
8 Session of 2013 and every regular session thereafter, an annual  
9 report that includes the following:

- 10 (1) Updates on the development, adoption, and
- 11 implementation of rules pursuant to chapter 91, Hawaii
- 12 Revised Statutes;
- 13
- 14 (2) The effectiveness and enforcement of the rules adopted
- 15 to replenish the opihi stocks;
- 16
- 17 (3) Ongoing discussions and work with the Hawaii Institute
- 18 of Marine Biology of the University of Hawaii
- 19 regarding establishing open and closed seasons for the
- 20 taking and harvesting of opihi from above the
- 21 waterline of the coastal areas or nearshore waters of
- 22 the islands, gathering and compiling baseline and
- 23 subsequent annual data on opihi stocks, and efforts in
- 24 replenishing the opihi stocks;
- 25
- 26 (4) Annual data on opihi stocks, including baseline data
- 27 to be submitted in the annual report to the
- 28 Legislature prior to the Regular Session of 2013, and
- 29 the efforts and any issues encountered in gathering
- 30 and compiling such data; and
- 31
- 32 (5) Recommendations and any proposed legislation; and
- 33
- 34



1 BE IT FURTHER RESOLVED that certified copies of this  
2 Concurrent Resolution be transmitted to the Chairperson of the  
3 Board of Land and Natural Resources, Administrator of the  
4 Division of Aquatic Resources, Chairperson of the Kahoolawe  
5 Island Reserve Commission; Chancellor of the University of  
6 Hawaii at Manoa, and Dean of the School of Ocean and Earth  
7 Science and Technology at the University of Hawaii at Manoa.

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OFFERED BY: \_\_\_\_\_

