
SENATE CONCURRENT RESOLUTION

URGING THE ESTABLISHMENT OF A NATIVE HAWAIIAN INTELLECTUAL
PROPERTY TASK FORCE TO DEVELOP A SUI GENERIS LEGAL SYSTEM
TO RECOGNIZE AND PROTECT NATIVE HAWAIIAN CULTURAL
INTELLECTUAL PROPERTY, TRADITIONAL CULTURAL EXPRESSIONS,
AND GENETIC RESOURCES.

1 WHEREAS, the Native Hawaiian people's collective
2 intellectual property rights are based upon the traditional,
3 cultural knowledge developed over thousands of years and passed
4 down from generation to generation; and
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6 WHEREAS, the value of Native Hawaiian cultural expressions
7 and art forms are exhibited in many forms, including the use of
8 ka 'ōlelo Hawai'i, hula, mele, mo'olelo, lei making, kapa making,
9 kākau, weaving, feather work, carving, and wayfinding; and
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11 WHEREAS, the western intellectual property system was
12 developed to protect the rights of creators and inventors
13 against plagiarism and to reward and encourage new inventions
14 and was not developed to protect the rights of indigenous
15 peoples to their collective, traditional knowledge, cultural
16 expressions, and art forms; and
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18 WHEREAS, existing western intellectual property laws
19 recognizing patents, registered trademarks, designs, and
20 copyright often facilitate the theft, misuse, and
21 misappropriation of indigenous knowledge by researchers,
22 authors, scientists, biotechnology corporations, universities,
23 the fashion industry, and others; and
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25 WHEREAS, disputes between indigenous peoples and third-
26 party users of indigenous knowledge resources over ownership and
27 control have steadily increased in the last five years; and



1 WHEREAS, a non-Hawaiian food chain that originated in
2 Chicago, Aloha Poke Co., issued cease-and-desist letters
3 threatening small poke food businesses in Hawai'i and across the
4 nation from using the words "Aloha" and "Poke", in essence
5 claiming ownership of these cultural expressions; and
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7 WHEREAS, issues relating to indigenous intellectual
8 property rights have been addressed in many international
9 forums, including the World Intellectual Property Organization's
10 Intergovernmental Committee on Intellectual Property and Genetic
11 Resources, Traditional Knowledge and Folklore; the United
12 Nations Commission on Human Rights; the United Nations
13 Declaration on Rights of Indigenous Peoples; in relation to the
14 environment in Agenda 21 of the Rio de Janeiro Earth Summit; and
15 the Convention on Biological Diversity; and
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17 WHEREAS, other indigenous people have developed strategies
18 and sui generis legal frameworks or systems to protect their
19 collective intellectual property rights and knowledge, including
20 the Indian Arts and Crafts Board federally funded through the
21 United States Department of the Interior, the Toi Iho registered
22 trademark for the Maori art and artists funded through a
23 charitable trust, and the Alaska State Council on the Arts
24 Silver Hand Program for Alaska Native artists funded through the
25 state; and
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27 WHEREAS, the Association of Hawaiian Civic Clubs previously
28 adopted Resolution Nos. 02-08, 03-13, and 17-57 to protect
29 Native Hawaiian cultural intellectual property and resources and
30 urge the Legislature to enact legislation, in consultation with
31 Native Hawaiians, that recognizes and protects the Native
32 Hawaiian people's collective intellectual property rights; and
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34 WHEREAS, the laws of the State of Hawai'i recognize the
35 traditional customary rights of Native Hawaiians but do not
36 expressly recognize and protect the collective intellectual
37 property rights of the Native Hawaiian peoples; now, therefore,
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39 BE IT RESOLVED by the Senate of the Thirtieth Legislature
40 of the State of Hawaii, Regular Session of 2019, the House of
41 Representatives concurring, that the Department of Business,
42 Economic Development, and Tourism, State Foundation on Culture



1 and the Arts, Department of Commerce and Consumer Affairs,
2 Department of Land and Natural Resources, Aha Moku Advisory
3 Committee, University of Hawai'i System, and any other relevant
4 state agency is urged, in collaboration with each other and with
5 the Native Hawaiian Bar Association, Association of Hawaiian
6 Civic Clubs, Office of Hawaiian Affairs, Council for Native
7 Hawaiian Advancement, PA'I Foundation, Hawai'i Arts Alliance,
8 Maui Arts & Cultural Center, Nā Mea Hawai'i, Native Hawaiian
9 Chamber of Commerce, Native Hawaiian intellectual property
10 lawyers, and other relevant legal scholars, to establish the
11 Native Hawaiian intellectual property task force; and
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13 BE IT FURTHER RESOLVED that the task force is requested to
14 develop a sui generis legal system to recognize and protect
15 Native Hawaiian cultural intellectual property, traditional
16 cultural expressions, and genetic resources; and
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18 BE IT FURTHER RESOLVED that the task force is requested to
19 consult with indigenous communities, as appropriate; and
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21 BE IT FURTHER RESOLVED that the task force is requested to
22 submit its recommendations, including any proposed legislation,
23 to the Legislature no later than twenty days prior to the
24 convening of the Regular Session of 2022; and
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26 BE IT FURTHER RESOLVED that certified copies of this
27 Concurrent Resolution be transmitted to the members of Hawai'i's
28 congressional delegation; the Governor; Chairperson of the Board
29 of Trustees of the Office of Hawaiian Affairs; Director of
30 Business, Economic Development, and Tourism; Director of
31 Commerce and Consumer Affairs; Chairperson of the Board of Land
32 and Natural Resources; Chair of the Aha Moku Advisory Committee;
33 President of the University of Hawai'i System; Executive Director
34 of the State Foundation on Culture and the Arts; Mayors of the
35 Counties of Maui, Kaua'i, and Hawai'i and the City and County of
36 Honolulu; Executive Director of PA'I Foundation; Chief Executive
37 Officer of the Hawai'i Arts Alliance; President and Chief
38 Executive Officer of the Maui Arts & Cultural Center; Chief
39 Executive Officer of the Council for Native Hawaiian
40 Advancement; Founder of Nā Mea Hawai'i; Native Hawaiian Bar



- 1 Association; and Presidents of the Native Hawaiian Chambers of
- 2 Commerce of O'ahu, Maui, Kaua'i, and Hawai'i Island.
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