

MAR 10 2023

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# 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.

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  
17

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 ten years; and  
28

29           WHEREAS, a non-Hawaiian food chain that originated in  
30 Chicago, Aloha Poke Co., issued cease-and-desist letters



1 threatening small poke food businesses in Hawai'i and across the  
2 nation from using the words "Aloha" and "Poke", in essence  
3 claiming ownership of these cultural expressions; and  
4

5 WHEREAS, issues relating to indigenous intellectual  
6 property rights have been addressed in many international  
7 forums, including the World Intellectual Property Organization's  
8 Intergovernmental Committee on Intellectual Property and Genetic  
9 Resources, Traditional Knowledge and Folklore; the United  
10 Nations Commission on Human Rights; the United Nations  
11 Declaration on Rights of Indigenous Peoples; in relation to the  
12 environment in Agenda 21 of the Rio de Janeiro Earth Summit; and  
13 the Convention on Biological Diversity; and  
14

15 WHEREAS, other indigenous people have developed strategies  
16 and sui generis legal frameworks or systems to protect their  
17 collective intellectual property rights and knowledge, including  
18 the Indian Arts and Crafts Board federally funded through the  
19 United States Department of the Interior, the Toi Iho registered  
20 trademark for the Maori art and artists funded through a  
21 charitable trust, and the Alaska State Council on the Arts  
22 Silver Hand Program for Alaska Native artists funded through the  
23 state; and  
24

25 WHEREAS, the Association of Hawaiian Civic Clubs previously  
26 adopted Resolution Nos. 02-08, 03-13, and 17-57 to protect  
27 Native Hawaiian cultural intellectual property and resources and  
28 urge the Legislature to enact legislation, in consultation with  
29 Native Hawaiians, that recognizes and protects the Native  
30 Hawaiian people's collective intellectual property rights; and  
31

32 WHEREAS, the laws of the State recognize the traditional  
33 customary rights of Native Hawaiians but do not expressly  
34 recognize and protect the collective intellectual property  
35 rights of the Native Hawaiian peoples; now, therefore,  
36

37 BE IT RESOLVED by the Senate of the Thirty-second  
38 Legislature of the State of Hawaii, Regular Session of 2023, the  
39 House of Representatives concurring, that this body urges the  
40 establishment of a Native Hawaiian Intellectual Property Working  
41 Group to discuss policies and legislation with respect to Native  
42 Hawaiian intellectual property; and



1  
2 BE IT FURTHER RESOLVED that the Native Hawaiian  
3 Intellectual Property Working Group consist of nine members who  
4 are experts in Native Hawaiian law, indigenous intellectual  
5 property, or Native Hawaiian cultural customs and art or are  
6 Native Hawaiian cultural practitioners; provided that the  
7 Governor, Speaker of the House of Representatives, and Senate  
8 President each appoint three members to the working group, as  
9 nominated by the following organizations and entities:

- 10  
11 (1) The Office of Hawaiian Affairs;  
12  
13 (2) The Hawaii State Foundation on Culture and the Arts;  
14  
15 (3) The Native Hawaiian Legal Corporation;  
16  
17 (4) The Ka Huli Ao Center for Excellence in Native  
18 Hawaiian Law;  
19  
20 (5) Kāhuli Leo Le‘a;  
21  
22 (6) The ‘Ihikapalaumaewa Foundation; and  
23  
24 (7) The Kawaihuelani Center for Hawaiian Language; and  
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26 BE IT FURTHER RESOLVED that the members of the Native  
27 Hawaiian Intellectual Property Working Group select a  
28 chairperson from among its members; and  
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30 BE IT FURTHER RESOLVED that the Native Hawaiian  
31 Intellectual Property Working Group is requested to create and  
32 develop solutions to prevent Native Hawaiian intellectual  
33 property from being incorrectly appropriated; and  
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35 BE IT FURTHER RESOLVED that the Native Hawaiian  
36 Intellectual Property Working Group is requested to meet at  
37 least once a month; and  
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39 BE IT FURTHER RESOLVED that the Native Hawaiian  
40 Intellectual Property Working Group is requested to submit its  
41 recommendations, including any proposed legislation, to the



# S.C.R. NO. 191

1 Legislature no later than twenty days prior to the convening of  
2 the Regular Session of 2025; and

3

4 BE IT FURTHER RESOLVED that certified copies of this  
5 Concurrent Resolution be transmitted to the Governor, Chief  
6 Executive Officer of the Office of Hawaiian Affairs, Dean of the  
7 University of Hawai'i at Mānoa William S. Richardson School of  
8 Law, Director of the Ka Huli Ao Center for Excellence in Native  
9 Hawaiian Law, Dean of the Kawaihuelani Center for Hawaiian  
10 Language, Interim Executive Director of the Hawaii State  
11 Foundation on Culture and the Arts, Executive Director of the  
12 Native Hawaiian Legal Corporation, Board of Directors of Kāhuli  
13 Leo Le'a, and President of the 'Ihikapalaumaewa Foundation.

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

A handwritten signature in black ink, consisting of a large, stylized initial 'R' followed by a horizontal line.