
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
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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 ten years; and
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29 WHEREAS, a non-Hawaiian food chain that originated in
30 Chicago, Aloha Poke Co., issued cease-and-desist letters
31 threatening small poke food businesses in Hawaii and across the



1 nation from using the words "Aloha" and "Poke", in essence
2 claiming ownership of these cultural expressions; and
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4 WHEREAS, issues relating to indigenous intellectual
5 property rights have been addressed in many international
6 forums, including the World Intellectual Property Organization's
7 Intergovernmental Committee on Intellectual Property and Genetic
8 Resources, Traditional Knowledge and Folklore; the United
9 Nations Commission on Human Rights; the United Nations
10 Declaration on Rights of Indigenous Peoples; in relation to the
11 environment in Agenda 21 of the Rio de Janeiro Earth Summit; and
12 the Convention on Biological Diversity; and
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14 WHEREAS, other indigenous people have developed strategies
15 and sui generis legal frameworks or systems to protect their
16 collective intellectual property rights and knowledge, including
17 the Indian Arts and Crafts Board federally funded through the
18 United States Department of the Interior, the Toi Iho registered
19 trademark for the Maori art and artists funded through a
20 charitable trust, and the Alaska State Council on the Arts
21 Silver Hand Program for Alaska Native artists funded through the
22 state; and
23

24 WHEREAS, on October 3-5, 2003, the Paoakalani Declaration
25 was compiled at the Native Hawaiian Intellectual Property Rights
26 Conference to express Native Hawaiians' collective right of
27 self-determination to perpetuate their culture under threat of
28 theft and commercialization of the traditional knowledge of
29 Kanaka Maoli, wahi pana, and nā mea Hawai'i; and
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31 WHEREAS, on August 21-22, 2021, the international coalition
32 of kumu hula, Huamakahikina, convened to form and ratify the
33 *Huamakahikina Declaration on the Integrity, Stewardship, and*
34 *Protection of Hula*, which states, "There is insufficient
35 protection for the Kanaka Maoli culture and knowledge maintained
36 within, and embodied by, Hula. This includes infringement of
37 the intellectual property rights to which Kumu Hula are entitled
38 with respect to the Hula resources they steward and create"; and
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40 WHEREAS, the Association of Hawaiian Civic Clubs previously
41 adopted Resolution Nos. 02-08, 03-13, and 17-57 to protect
42 Native Hawaiian cultural intellectual property and resources and



1 urge the Legislature to enact legislation, in consultation with
2 Native Hawaiians, that recognizes and protects the Native
3 Hawaiian people's collective intellectual property rights; and
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5 WHEREAS, the laws of the State recognize the traditional
6 customary rights of Native Hawaiians but do not expressly
7 recognize and protect the collective intellectual property
8 rights of the Native Hawaiian peoples; now, therefore,
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10 BE IT RESOLVED by the Senate of the Thirty-second
11 Legislature of the State of Hawaii, Regular Session of 2023, the
12 House of Representatives concurring, that this body urges the
13 establishment of a Native Hawaiian Intellectual Property Working
14 Group to discuss policies and legislation with respect to Native
15 Hawaiian intellectual property; and
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17 BE IT FURTHER RESOLVED that the Native Hawaiian
18 Intellectual Property Working Group consist of nine members who
19 are experts in Native Hawaiian law, indigenous intellectual
20 property, or Native Hawaiian cultural customs and art or are
21 Native Hawaiian cultural practitioners; provided that the
22 Governor, Speaker of the House of Representatives, and Senate
23 President each appoint three members to the working group, as
24 nominated by the following organizations and entities:
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- 26 (1) The Office of Hawaiian Affairs;
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- 28 (2) The Hawaii State Foundation on Culture and the Arts;
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- 30 (3) The Native Hawaiian Legal Corporation;
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- 32 (4) The Ka Huli Ao Center for Excellence in Native
33 Hawaiian Law;
- 34
- 35 (5) Kāhuli Leo Le'a;
- 36
- 37 (6) The 'Ihikapalaumaewa Foundation;
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- 39 (7) The Kawaihuelani Center for Hawaiian Language; and
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- 41 (8) The Association of Hawaiian Civic Clubs; and
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1 BE IT FURTHER RESOLVED that the members of the Native
2 Hawaiian Intellectual Property Working Group select a
3 chairperson from among its members; and
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5 BE IT FURTHER RESOLVED that the Native Hawaiian
6 Intellectual Property Working Group is requested to create and
7 develop solutions to prevent Native Hawaiian intellectual
8 property from being incorrectly appropriated; and
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10 BE IT FURTHER RESOLVED that the Native Hawaiian
11 Intellectual Property Working Group is requested to meet at
12 least once a month; and
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14 BE IT FURTHER RESOLVED that the Native Hawaiian
15 Intellectual Property Working Group is requested to consult with
16 industry stakeholders, such as the Creative Industries Division
17 of the Department of Business, Economic Development, and
18 Tourism, in addition to other Native Hawaiian communities and
19 organizations deemed appropriate, who are encouraged to
20 cooperate and provide information or input; and
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22 BE IT FURTHER RESOLVED that the members of the Native
23 Hawaiian Intellectual Property Working Group and the named
24 organizations and entities are requested to have the authority
25 to include additional Native Hawaiian organizations and entities
26 through consensus at their discretion; and
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28 BE IT FURTHER RESOLVED that the members of the Native
29 Hawaiian Intellectual Property Working Group is requested to
30 monitor the upcoming, June 5-9, 2023, forty-seventh session of
31 the World Intellectual Property Organization's Intergovernmental
32 Committee on Intellectual Property and Genetic Resources,
33 Traditional Knowledge and Folklore, which will address
34 traditional knowledge and traditional cultural expressions and
35 will also take stock and make recommendations to the 2023 United
36 Nations General Assembly; and
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38 BE IT FURTHER RESOLVED that the Native Hawaiian
39 Intellectual Property Working Group is requested to submit its
40 recommendations, including any proposed legislation, to the
41 Legislature no later than twenty days prior to the convening of
42 the Regular Session of 2025; and



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

