

MAR 08 2019

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# SENATE 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  
10

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  
24

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  
28

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 Hawai'i and across the  
32 nation from using the words "Aloha" and "Poke", in essence  
33 claiming ownership of these cultural expressions; and



1  
2 WHEREAS, issues relating to indigenous intellectual  
3 property rights have been addressed in many international  
4 forums, including the World Intellectual Property Organization's  
5 Intergovernmental Committee on Intellectual Property and Genetic  
6 Resources, Traditional Knowledge and Folklore; the United  
7 Nations Commission on Human Rights; the United Nations  
8 Declaration on Rights of Indigenous Peoples; in relation to the  
9 environment in Agenda 21 of the Rio de Janeiro Earth Summit; and  
10 the Convention on Biological Diversity; and  
11

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

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

29 WHEREAS, the laws of the State of Hawai'i recognize the  
30 traditional customary rights of Native Hawaiians but do not  
31 expressly recognize and protect the collective intellectual  
32 property rights of the Native Hawaiian peoples; now, therefore,  
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34 BE IT RESOLVED by the Senate of the Thirtieth Legislature  
35 of the State of Hawaii, Regular Session of 2019, that the  
36 Department of Business, Economic Development, and Tourism, State  
37 Foundation on Culture and the Arts, Department of Commerce and  
38 Consumer Affairs, Department of Land and Natural Resources,  
39 University of Hawai'i System, and any other relevant state agency  
40 is urged, in collaboration with each other and with the  
41 Association of Hawaiian Civic Clubs, Office of Hawaiian Affairs,  
42 Council for Native Hawaiian Advancement, PA'I Foundation, Hawai'i



1 Arts Alliance, Maui Arts & Cultural Center, Nā Mea Hawai'i,  
 2 Native Hawaiian Chamber of Commerce, Native Hawaiian  
 3 intellectual property lawyers, and other relevant legal  
 4 scholars, to establish the Native Hawaiian intellectual property  
 5 task force (task force); and  
 6

7 BE IT FURTHER RESOLVED that the task force is requested to  
 8 develop a sui generis legal system to recognize and protect  
 9 Native Hawaiian cultural intellectual property, traditional  
 10 cultural expressions, and genetic resources; and  
 11

12 BE IT FURTHER RESOLVED that the task force is requested to  
 13 consult with indigenous communities, as appropriate; and  
 14

15 BE IT FURTHER RESOLVED that the task force is requested to  
 16 submit its recommendations, including any proposed legislation,  
 17 to the Legislature no later than twenty days prior to the  
 18 convening of the Regular Session of 2022; and  
 19

20 BE IT FURTHER RESOLVED that certified copies of this  
 21 Resolution be transmitted to the members of Hawai'i's  
 22 congressional delegation; Governor of the State of Hawai'i;  
 23 Chairperson of the Board of Trustees of the Office of Hawaiian  
 24 Affairs; Director of Business, Economic Development, and  
 25 Tourism; Director of Commerce and Consumer Affairs; Chairperson  
 26 of the Board of Land and Natural Resources; President of the  
 27 University of Hawai'i System; Executive Director of the State  
 28 Foundation on Culture and the Arts; Chair of the Senate Standing  
 29 Committee on Hawaiian Affairs; Chair of the House of  
 30 Representatives Standing Committee on Water, Land, and Hawaiian  
 31 Affairs; Mayors of the Counties of Maui, Kaua'i, and Hawai'i and  
 32 City and County of Honolulu; Executive Director of PA'I  
 33 Foundation; Chief Executive Officer of the Hawai'i Arts Alliance;  
 34 President and Chief Executive Officer of the Maui Arts &  
 35 Cultural Center; Chief Executive Officer of the Council for  
 36



1 Native Hawaiian Advancement; Founder of Nā Mea Hawai'i; and  
2 Presidents of the Native Hawaiian Chambers of Commerce of O'ahu,  
3 Maui, Kaua'i, and Hawai'i island.  
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