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# HOUSE 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



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  
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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  
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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  
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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  
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32 WHEREAS, on October 3-5, 2003, the Paoakalani Declaration  
33 was compiled at the Native Hawaiian Intellectual Property Rights  
34 Conference to express Native Hawaiians' "collective right of  
35 self-determination to perpetuate our culture under threat of  
36 theft and commercialization of the traditional knowledge of  
37 Kanaka Maoli, our wahi pana and nā mea Hawai'i."  
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39 WHEREAS, on August 21-22, 2021, the international coalition  
40 of kumu hula, Huamakahikina, convened to form and ratify the  
41 Huamakahikina Declaration on the Integrity, Stewardship, and  
42 Protection of Hula which states "There is insufficient  
43 protection for Kanaka Maoli culture and knowledge maintained,



1 and embodied by, Hula. This includes infringement of the  
2 intellectual property rights to which Kumu Hula are entitled  
3 with respect to the Hula resources they steward and create."  
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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 House of Representatives of the  
11 Thirty-second Legislature of the State of Hawaii, Regular  
12 Session of 2023, the Senate 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;
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- 37 (6) The ‘Ihikapalaumaewa Foundation; and
- 38
- 39 (7) The Kawaihuelani Center for Hawaiian Language; and  
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41 BE IT FURTHER RESOLVED that the members of the Native  
42 Hawaiian Intellectual Property Working Group select a  
43 chairperson from among its members; and



1 BE IT FURTHER RESOLVED, that the members of the Native  
2 Hawaiian Intellectual Property Working Group and the named  
3 organizations and entities will have the authority to include  
4 additional Native Hawaiian organizations and entities through  
5 consensus at their discretion.

6  
7 BE IT FURTHER RESOLVED that the Native Hawaiian  
8 Intellectual Property Working Group is requested to create and  
9 develop solutions to prevent Native Hawaiian intellectual  
10 property from being incorrectly appropriated; and

11  
12 BE IT FURTHER RESOLVED that the Native Hawaiian  
13 Intellectual Property Working Group is requested to meet at  
14 least once a month; and

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16 BE IT FURTHER RESOLVED that the Native Hawaiian  
17 Intellectual Property Working Group is requested to submit its  
18 recommendations, including any proposed legislation, to the  
19 Legislature no later than twenty days prior to the convening of  
20 the Regular Session of 2025; and

21  
22 BE IT FURTHER RESOLVED that certified copies of this  
23 Concurrent Resolution be transmitted to the Governor, Chief  
24 Executive Officer of the Office of Hawaiian Affairs, Dean of the  
25 University of Hawai'i at Mānoa William S. Richardson School of  
26 Law, Director of the Ka Huli Ao Center for Excellence in Native  
27 Hawaiian Law, Dean of the Kawaihuelani Center for Hawaiian  
28 Language, Interim Executive Director of the Hawaii State  
29 Foundation on Culture and the Arts, Executive Director of the  
30 Native Hawaiian Legal Corporation, Board of Directors of Kāhuli  
31 Leo Le'a, and President of the 'Ihikapalaumaewa Foundation.

