



**TESTIMONY IN SUPPORT OF
HOUSE CONCURRENT RESOLUTION 114 AND HOUSE RESOLUTION 106
SUPPORTING THE NATIVE HAWAIIAN INTELLECTUAL PROPERTY WORKING
GROUP'S REQUEST FOR RESOURCES AND TIMELINE EXTENSION FOR FISCAL YEAR
2026-2027**

Ke Kōmike Hale o ka Ho‘okolokolo a me ke Kuleana Hawai‘i
(House Committee on Judiciary & Hawaiian Affairs)

Ke Kapitala ‘o Hawai‘i
(Hawai‘i State Capitol)

Malaki 31, 2026

2:00PM

Lumi 325

Aloha e Chair Tarnas, Vice Chair Poepoe, and House Members of the Committee on Judiciary and Hawaiian Affairs:

Mahalo for hearing this resolution. The Office of Hawaiian Affairs (OHA) **SUPPORTS HCR114/HR106** which requests an extension of resources and timeline for fiscal year 2026-2027 for the Native Hawaiian Intellectual Property Working Group (Working Group).

Since the Working Group was established, following the collective support and will of this legislative body in 2023, OHA has participated as a member of this Working Group. This Working Group has been tasked to create a report on the policies and legislation needed to better protect Native Hawaiian culture and traditional knowledge. The Working Group has successfully convened and established membership with one vacancy remaining. The Working Group also elected its chair and co-chair: Kumu Hula Vicky Holt-Takamine, Executive Director of the PA‘I Foundation and Makalika Naholowa‘a, Executive Director of the Native Hawaiian Legal Corporation. The leaders of the Working Group are world renowned for their expertise in Hawaiian cultural knowledge and Native Hawaiian Rights/Intellectual Property Law respectively. The Working Group is undoubtedly well-positioned under their leadership to fulfill its charge given the appropriate time and resources.

While the Working Group is committed to continuing this important work, more time and resources are needed to fulfill its mandate at the scale and in the manner demanded by the importance of this kuleana. Across the pae ‘āina, there is an increasing desire to leverage ‘ike kūpuna in various forms and sectors by Native Hawaiians. At the same time, there is also an increasing need to protect against exploitation of Native

Hawaiian cultural intellectual property, traditional cultural expressions, and genetic resources by individuals who lack connection to the community and are simply seeking profit. These competing needs, and the intersection with complex legal and economic systems, are issues that require careful time, consideration, community input, and expert analysis before well-informed and meaningful recommendations can be made.

Adopting this resolution will provide needed support to the Working Group to continue its important work. While resources are needed to continue the work of the Working Group, OHA notes that there is no appropriation request in this resolution.

Accordingly, we urge the Committee to **PASS** HCR114/HR106.

Mahalo for the opportunity to testify on this measure.



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Testimony to the
House Committee on Judiciary and Hawaiian Affairs
Relating to House Concurrent Resolution 114 & House Resolution 106

SUPPORTING THE NATIVE HAWAIIAN INTELLECTUAL PROPERTY WORKING
GROUP'S REQUEST FOR RESOURCES AND TIMELINE EXTENSION FOR FISCAL YEAR
2026-2027.

March 31, 2026 02:00 p.m. State Capitol, Conf. Room 325 via Videoconference

Aloha e Chair Tarnas, Vice Chair Poepoe, and members of the Committee on Judiciary and Hawaiian Affairs:

Native Hawaiian Legal Corporation ("NHLC") submits this testimony in strong support of H.C.R. No. 114 and H.R. 106 to extend resources and provide time for the Native Hawaiian Intellectual Property Working Group ("Working Group") to continue its work through fiscal year 2026-2027.

I have the honor of serving as a member of the Working Group, nominated to serve by NHLC, and was elected Co-Chair of the group at its first meeting. The original resolution calling for formation of the Working Group reflected the Legislature's commitment to the protection and care of Native Hawaiian culture. These resolutions ask that the Legislature reaffirm that commitment by supporting the Working Group with the time and resources essential for its success.

Native Hawaiian Intellectual and Cultural Property Needs Protection

The Working Group was asked to report to the Legislature with findings and policy recommendations that will enable the State to better safeguard Native Hawaiian intellectual property. Native Hawaiian intellectual property is an evolving term of art within the broader domain of Indigenous cultural property. It is frequently used to refer to the intangible dimensions of the Native Hawaiian culture, including the knowledge, practices, expressions, language, traditions, and ways of knowing that are distinctive aspects of what makes Native Hawaiians a unique people.

Thanks to determined advocates, Hawai'i has complex governmental and legal systems that support many physical manifestations and tangible expressions of Native Hawaiian culture. As examples, Hawai'i has protections for 'āina, for wai, for iwi kūpuna and burials, sacred

objects, and objects of cultural patrimony. Hawai‘i also has publicly funded Hawaiian Home Lands, Native Hawaiian Health Centers, and Hawaiian language immersion schools. These physical components of the culture and the infrastructure for community and culture-based living, while imperfect and requiring constant defense, exist and are essential to the perpetuation of Hawaiian culture in this era.

In contrast, protection for the intangible remains nascent within Hawai‘i law and state and federal systems. Much has been done since statehood to remove historical restrictions on Native Hawaiian cultural practice and traditional knowledge preservation. For example, Hawai‘i has constitutional protections for Native Hawaiians' traditional and customary practices, and thankfully the days of Hawai‘i schools prohibiting the use of ‘ōlelo Hawai‘i are behind us. There is little legally, however, to defend the culture from abusive use, extraction, and appropriation.

Substantial cultural abuse is occurring. Residents and visitors lack education about authentic Hawaiian culture and how to engage with it respectfully. Though Hawai‘i has certain food labeling restrictions regarding source of goods, and consumer protection statutes that can address false or misleading claims about Hawaiian culture in the marketplace, these tools are insufficient. Local, national, and international marketplaces include brands, goods, and services marketed under the auspices of Native Hawaiian culture, in many cases with no Native Hawaiian provenance and no authentic Hawaiian connection, yet with no practical legal restriction. It is normal for Hawaiian culture to be commodified and commercialized without rights, recognition, or economic benefit flowing to the Hawaiian people, without whom the culture is not a living tradition, but merely a marketing vehicle.

Technical assistance and access to justice are also problems. The intellectual property system and adjacent legal domains like advertising, consumer protection, privacy, and publicity rights are complex. Most cannot navigate them without counsel. Yet access to legal counsel for these matters is expensive and difficult to find. As such, traditional knowledge holders and cultural practitioners are rarely benefitting from legal monitoring, advice, advocacy, and deal support to defend themselves and the culture with the means current law can afford.

Given these challenges, it is perhaps no surprise that data and analysis to inform policy solutions remain underdeveloped. Yet these issues threaten the integrity of the culture itself, causing confusion and other harms regarding what is authentically Hawaiian, potentially impacting our own children at home and in the diaspora. That threat carries real and costly risks for everyone in Hawai‘i, not only for Kānaka Maoli. Harm to Native Hawaiian culture impacts all who participate in and depend upon industries that draw their vitality from it, not the least of which includes tourism and the arts and entertainment industries.

It was with this understanding that the Legislature called this Working Group into being.

The Scope of This Work Is Substantial – Time and Resources Are Essential

The magnitude of what the Legislature has asked this Working Group to undertake bears acknowledging. Comprehensively assessing the intellectual and cultural property needs of an entire Indigenous people, across domains ranging from traditional ecological knowledge to sacred ceremonial practice, from artistic expression to language, from genetic resources to digital media, and then translating those needs into actionable policy recommendations within existing and potential legal frameworks, is an undertaking of extraordinary complexity. Comparable efforts in other jurisdictions have taken years and required sustained investment of significant resources.¹ The Working Group is not asking for that scale of commitment at this time. But the Legislature should understand that even a well-resourced effort produces only a meaningful first step – an informed foundation from which future work can build. Without adequate resources and time, what the Working Group can offer will be limited by what volunteers can sustain, and the findings will reflect that constraint.

The ask for another year to work on the report will offset the year lost forming the group after the original resolution was adopted in 2023, due to the devastating Maui wildfires that rightfully redirected community attention and government resources. When the group was able to convene in June 2024, it was allocated no resources to support the research, community engagement, and analysis that the Legislature's request requires.

Despite those constraints, the members of this Working Group – including scholars, cultural practitioners, language experts, and organizational leaders – have been working on a volunteer basis, drawing on their own time and organizational funds. We have begun the community engagement process, hosting listening sessions at the Native Hawaiian Convention and the Association of Hawaiian Civic Clubs Convention in 2024.

What we learned from those early engagements is instructive and humbling:

- **First**, interest in this work is substantial. The community cares deeply about these issues, and there is both hunger and urgency for action.

¹ New Zealand's experience offers an instructive parallel. The Waitangi Tribunal's inquiry into Māori intellectual and cultural property rights, known as Wai 262, was first lodged in 1991 and became one of the Tribunal's most complex and lengthy cases; the report was not released until 2011, twenty years after filing, and more than four years after evidence gathering closed. Implementation has remained ongoing more than a decade after the report's release. See Waitangi Tribunal, *Ko Aotearoa Tēnei: A Report into Claims Concerning New Zealand Law and Policy Affecting Māori Culture and Identity* (Wai 262, 2011); see also Te Puni Kōkiri, *Te Pae Tawhiti: Wai 262* (ongoing), available at <https://www.tpk.govt.nz/en/a-matou-whakaarotau/te-ao-maori/wai-262-te-pae-tawhiti>. Australia too has engaged in consultations on Indigenous cultural and intellectual property frameworks without yet achieving comprehensive legislative reform. See IP Australia, *Protection of Indigenous Knowledge in the Intellectual Property System — 2019 Consultation Report* (summarizing 2018-19 stakeholder consultation), available at <https://www.ipaustralia.gov.au/about-us/public-consultations/intellectual-property-policy/policy-register/establishing-an-indigenous-advisory-panel>. These examples reflect not a failure of will, but the genuine complexity of aligning Indigenous values and collective rights with existing legal systems.

- **Second**, there is a genuine need for education and training to accompany community engagement. Many community members, though directly affected by the problems we are studying, need foundational context about intellectual property law and what tools may or may not exist before they can meaningfully assess which problems are of greatest priority.
- **Third**, and critically, doing this work in a pono way requires individual and small group opportunities to share, not only large community forums. The nature of this subject matter, including traditional knowledge, sacred practices, community governance, demands a process that honors how Kānaka Maoli relate and make decisions together. That takes time, relationships, and meeting people where they are in their communities.

H.C.R. No. 114 and H.R. 106 ask the Legislature to do something straightforward and necessary: support the completion of work it requested, with the time and resources that work requires. Doing so will allow the Working Group to produce a report that is informed, grounded in community voice, and ultimately capable of fulfilling the Legislature's goals.

I respectfully ask for your support of these resolutions so the Working Group may complete this important work.

Mahalo for the opportunity to submit testimony.

Me ka ha'aha'a,



Makalika Naholowaa
Executive Director, Native Hawaiian Legal Corporation
Co-Chair, Native Hawaiian Intellectual Property Working Group

House of Representatives
Thirty-Third Legislature, 2026
State of Hawai‘i

RE: Strong Support of H.C.R. No. 114 and H.R. 106

30 Malaki, 2026

Aloha mai, e Luna Noho Tarnas, Hope Luna Noho Poepoe, a me nā lālā o ke Committee on Judiciary & Hawaiian Affairs:

I submit this testimony in strong support of H.C.R. No. 114 and H.R. 106 to extend resources and provide time for the Native Hawaiian Intellectual Property Working Group (“Working Group”) to continue its work through fiscal year 2026-2027.

I am the kumu hula nui of Hālau Hula ‘o Ka Malama Mahilani (Maui, O‘ahu, Japan); a Leo Kāhoa Steering Committee Member of the international coalition of kumu hula, Huamakahikina; the Vice President of the ‘Ihikapalaumāewa Foundation; and, I serve as a member of the Native Hawaiian Intellectual Property Working Group. The original resolution calls for the formation of the Working Group as reflected the Legislature's commitment to the protection and care of Native Hawaiian culture. These resolutions ask that the Legislature reaffirm that commitment by supporting the Working Group with the time and resources essential for its success.

To echo the support offered by the Native Hawaiian Legal Corporation, “The Working Group was asked to report to the Legislature with findings and policy recommendations that will enable the State to better safeguard Native Hawaiian intellectual property. Native Hawaiian intellectual property is an evolving term of art within the broader domain of Indigenous cultural property. It is frequently used to refer to the intangible dimensions of the Native Hawaiian culture, including the knowledge, practices, expressions, language, traditions, and ways of knowing that are distinctive aspects of what makes Native Hawaiians a unique people . . . due to the devastating Maui wildfires [of 2023] that rightfully redirected community attention and government resources. When the group was able to convene in June 2024, it was allocated no resources to support the research, community engagement, and analysis that the Legislature's request requires.”

In our initial data-gathering efforts as the Working Group, it became blatantly clear that substantial abuse of Native Hawaiian Intellectual Property is occurring at a magnitude much larger than what was first suspected. As such, effective recommendations and solutions will require a complex comprehensive assessment. In parallel undertakings in other jurisdictions, investment of significant time and resources have been necessary. Although the Working Group is not requesting such scale at the moment, the Legislature should be cognizant that without adequate resourcing, the Working Group will be constrained in its ability to adequately address the issues at hand, as well as provide recommendations for long-term solutions.

Because the Working Group is tasked with representing Kānaka Maoli and the Community, and as a member of the Working Group, I ask that you support H.C.R. No. 114 and H.R. 106 to extend resources and provide time for the Native Hawaiian Intellectual Property Working Group (“Working Group”) to continue its work through fiscal year 2026-2027.

Me ka ‘oia‘i‘o,

Kumu Hula Cody Pueo Pata
Hālau Hula ‘o Ka Malama Mahilani



Hawai'i State House of Representatives
Committee on Judiciary and Hawaiian Affairs

HCR114 – Supporting the Native Hawaiian Intellectual Property Working Group's Request for Resources and Timeline Extension for FY2026 – 2027

RE: Strong support of HCR114

March 31, 2026

Aloha Chair Tarnas, Vice Chair Poepoe, and Members of the Committee,

The Hawaiian Council writes in **strong support of HCR114**, which requests continued support for the Native Hawaiian Intellectual Property Working Group.

As a non-profit Native Hawaiian organization, Hawaiian Council recognizes the urgent need to protect 'ike, cultural practices, and traditional knowledge. Native Hawaiian intellectual property is not simply a resource, but an ancestral inheritance that carries deep cultural, spiritual, and communal significance. Ensuring their protection is essential to preserving the integrity of Native Hawaiian identity for future generations.

The misuse and unauthorized commercialization of Native Hawaiian cultural expressions continues to pose a serious concern. Without appropriate safeguards, 'ike kupuna and other cultural assets remain vulnerable to exploitation, often without the consent or benefit of Native Hawaiian communities. Addressing these challenges requires thoughtful, community-driven solutions grounded in 'ike and cultural values.

The Native Hawaiian Intellectual Property Working Group plays a critical role in advancing this work. Its efforts to engage stakeholders, explore legal frameworks, and develop meaningful recommendations are complex and require both time and adequate resources. Support for the working group will allow for more comprehensive community consultation and ensure that resulting policies are informed, effective, and culturally appropriate.

HCR114 represents an important step toward fulfilling the State's responsibility to protect Native Hawaiian rights and cultural resources. Supporting this measure will help ensure that Native Hawaiian voices remain at the center of decisions impacting their cultural heritage.

Mahalo for the opportunity to provide testimony in support of this measure. Hawaiian Council respectfully urges the House to **PASS HCR114**.

Me ke aloha,

Madelyn McKeague

Director of Advocacy, Hawaiian Council

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TESTIMONY IN SUPPORT OF H.R. NO. 106

SUPPORTING THE NATIVE HAWAIIAN INTELLECTUAL PROPERTY WORKING GROUP'S REQUEST FOR RESOURCES AND TIMELINE EXTENSION FOR FISCAL YEAR 2026–2027

Rep. David A. Tarnas, Chair
Rep Mahina Poepoe, Vice Chair
Members, Committee on Judiciary & Hawaiian Affairs

Hearing: March 31, 2026, 2:00 p.m.

Aloha Chair and Members of the Committee,

I offer this testimony in strong support of H.R. No. 106.

This resolution recognizes a fundamental truth: that the protection of Native Hawaiian intellectual property is not only a cultural imperative, but a constitutional responsibility of the State of Hawai‘i under Article XII, Section 7.

The Native Hawaiian Intellectual Property Working Group was established to address a deeply complex and evolving issue—how to safeguard ‘ike kūpuna, cultural expressions, language, and traditional practices from misuse, misappropriation, and exploitation. The work entrusted to this group cannot be rushed, nor can it be completed without meaningful engagement with our communities.

As noted in the resolution, culturally appropriate consultation is essential to ensure that any proposed protections reflect the collective wisdom and aspirations of our lāhui. This process requires time, trust-building, and resources.

Today, the urgency is even greater.

With the rapid advancement of artificial intelligence, Native Hawaiian intellectual property is increasingly at risk of being:

- Extracted without consent
- Replicated without cultural context
- Commercialized without benefit to Native Hawaiian communities

Without adequate safeguards, AI technologies may unintentionally—or intentionally—perpetuate cultural harm at a scale never before seen.

Extending the timeline and providing additional resources to the Working Group is therefore not a delay—it is a necessary investment in getting this right. **The extension would also provide opportunity for the working group to consider bills on Artificial Intelligence that may be adopted by this legislative session, and even those not adopted, in particular ,considering**

the Attorney General’s opinion oh HB2357 HD1, Relating to Artificial Intelligence, that would have prohibited music streaming platforms from hosting, distributing, or otherwise making available in the State music performed or attributed to an artificial intelligence music artist.

This effort is also tied to broader outcomes. Studies cited in the resolution affirm that when indigenous communities retain control over their cultural resources, they experience stronger economic stability, resilience, and cultural vibrancy.

For Hawai‘i, where culture is central to identity and also contributes significantly to our economy, protecting authenticity is essential—not optional.

H.R. No. 106 represents an important step toward:

- Upholding Native Hawaiian rights
- Advancing self-determination
- Ensuring that cultural knowledge is protected for future generations

For these reasons, I respectfully urge your support for this resolution.

Mahalo for the opportunity to testify.

Leimomi Khan

Testimony in Support of House Concurrent Resolution 114 & House Resolution 106

Supporting the Native Hawaiian Intellectual Property Working Group

March 31, 2026, 02:00 p.m.
Hawai‘i State Capitol, Conf. Room 325
& via Videoconference

Aloha nui e Chair Tarnas, Vice Chair Poepoe, and members of the Committee on Judiciary and Hawaiian Affairs:

Please accept this testimony in **strong support** of House Concurrent Resolution 114 & House Resolution 106. My name is U‘ilani Tanigawa Lum and I am a hula practitioner and an Assistant Professor of Law at the William S. Richardson School of Law. While I serve on the Native Hawaiian Intellectual Property Group as a representative of the William S. Richardson School of Law, *I humbly submit this testimony in my personal capacity.*

As I write this testimony, cultural practitioners across our pae ‘āina are preparing for the Merrie Monarch Hula Festival next week. As you may well know, this festival is often called the “Olympics of Hula,” illustrating the sheer excellence of its hula practitioners and the global attention it attracts. Indeed, it is this visibility that these resolutions contemplate and from which Hawai‘i’s economy benefits. More importantly, however, is the ‘ike that these practitioners steward. Again, at many times, at a huge personal expense. These resolutions seek to protect them – in the face of cultural abuse and rising costs.

As a member of this Legislature’s Native Hawaiian Intellectual Property Working Group, our work has been overwhelming. While we have certainly made progress and undertaken important discussions, our work has underscored the urgent need for additional time, and most importantly, resources. As volunteer members of the working group, we are grateful for the trust this body has put in us. Our kuleana, however, is extensive. And the community has illustrated a strong desire to meaningfully engage in the important work of this working group. We have to get this right. Driven by a desire to do right by Hawai‘i’s practitioners and recognizing the immense task envisioned by the original Resolutions, we humbly ask for your support for additional time and resources.

Please vote to pass these resolutions and to kāko‘o the work of the Native Hawaiian Intellectual Property Working Group.

Me ka ha‘aha‘a,



U‘ilani Tanigawa Lum
anelauilani@gmail.com