

MAR 18 2009

SENATE CONCURRENT RESOLUTION

URGING THE GOVERNOR AND THE LEGISLATURE TO REQUEST AND PROVIDE
FOR SUFFICIENT FUNDING FOR THE DEPARTMENT OF HAWAIIAN
HOMESTEADS.

1 WHEREAS, in 1920, the United States Congress enacted the
2 Hawaiian Homes Commission Act to award ninety-nine year
3 homestead leases to qualified native Hawaiians to recognize the
4 severe disruptions in the political, social, and economic issues
5 leading Hawaiians to the widespread loss of land; and
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7 WHEREAS, in 1959, the State of Hawai'i, in a compact with
8 the United States relating to the management and disposition of
9 Hawaiian home lands, agreed that the Hawaiian Homes Commission
10 Act would be adopted as part of the state constitution and
11 "faithfully administered" for the benefit of native Hawaiian
12 beneficiaries as a condition of attaining statehood and entry
13 into the Union; and
14

15 WHEREAS, this solemn promise was adopted as article XII,
16 section 3, of the state constitution as a demonstration of the
17 State's commitment to live up to the State's duties relating to
18 Hawaiian home lands, imposed on the compact between the State
19 and the United States; and
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21 WHEREAS, in 1978, the State ratified a constitutional
22 amendment that required the Legislature to make "sufficient
23 sums" available to pay for the operation of the Department of
24 Hawaiian Home lands, including:
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- 26 (1) Providing homesteads to every eligible beneficiary who
27 applies in a timely manner;
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- 29 (2) Funding farm, ranch, and aquaculture assistance
30 programs to make homesteaders successful on their
31 homesteads;



- 1
- 2 (3) Assisting homesteaders in community development
- 3 programs under the Native Hawaiian Rehabilitation
- 4 Fund; and
- 5
- 6 (4) Funding the administrative and operating budget of the
- 7 Department; and
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9 WHEREAS, the explicit reason for adopting this
10 constitutional amendment was to release the Department of
11 Hawaiian Home Lands from its present burden of generating
12 revenues through the general leasing of Hawaiian home lands to
13 pay for the costs of the homestead program and free Hawaiian
14 home lands for native Hawaiian beneficiaries, instead of being
15 diverted to general leases to non-beneficiaries; and
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17 WHEREAS, the 1978 constitutional convention delegates
18 intended to deny the Legislature any discretion in determining
19 whether to provide "sufficient sums" to the Department of
20 Hawaiian Home Lands in light of the chronic lack of resources
21 the Department previously faced; and
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23 WHEREAS, since 1978, no governor has sought to make
24 available the level of "sufficient sums" necessary for the
25 Department of Hawaiian Home Lands to perform all of its
26 functions including the funding of its administrative budget in
27 support of important trust work; and
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29 WHEREAS, these governors have systematically restricted the
30 level of funding requested for appropriation by the Legislature
31 on grounds other than that justified by the 1978 constitutional
32 amendment requiring the provision of "sufficient sums" to the
33 Department of Hawaiian Home Lands; and
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35 WHEREAS, neither the Hawaiian Homes Commission nor the
36 Department of Hawaiian Home Lands has ever insisted that the
37 State provide it with the constitutionally mandated "sufficient
38 sums" that would enable the Department to stabilize or reduce
39 the waiting list for homesteads; and
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41 WHEREAS, in 1995, the Legislature enacted Act 14, Session
42 Laws of Hawaii 1995, in special session to authorize
43 compensation to the Department of Hawaiian Home Lands for
44 various illegal administrative acts that had previously deprived



1 the Hawaiian home lands trust of land and revenues that should
2 have been paid to the Department of Hawaiian Home Lands between
3 1959 and 1988; and
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5 WHEREAS, Act 14 authorized, after negotiations between
6 various offending state agencies, the Department of Hawaiian
7 Home Lands, and an independent representative of native Hawaiian
8 beneficiaries, payments of \$30,000,000 per year to the Hawaiian
9 Home Lands Trust Fund for the succeeding twenty years in order
10 to eliminate any cloud in the former Hawaiian home lands trust
11 that had been illegally conveyed out of the trust to private
12 parties; and
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14 WHEREAS, Act 14 specifically precluded the State from
15 asserting that these payments met any part of the Legislature's
16 obligation to provide "sufficient sums" to the Department of
17 Hawaiian Home Lands, as required under article XII, section 1 of
18 the Hawaii constitution; and
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20 WHEREAS, the Department of Hawaiian Home Lands is expending
21 much of its resources to develop commercial lands, sacrificing
22 the time, energy, and resources that should be expended to place
23 native Hawaiian beneficiaries on Hawaiian home lands; and
24

25 WHEREAS, under the hope and presumption that revenues from
26 the general leases to non-beneficiaries would pay for developing
27 homesteads for native Hawaiians on other Hawaiian home lands,
28 the Department of Hawaiian Home Lands has failed to objectively
29 determine whether the commitment of lands for general leasing to
30 non-beneficiaries will result in adequate compensation to the
31 Department of Hawaiian Home Lands; and
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33 WHEREAS, the Department of Hawaiian Home Lands will likely
34 have to expend more money to develop any available Hawaiian home
35 lands that were to accommodate those native Hawaiians who were
36 denied the use of Hawaiian home lands made available to non-
37 beneficiaries through general leases; and
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39 WHEREAS, the state administration provides funding to the
40 Department of Hawaiian Home Lands as low priority, relative to
41 funding for other entities that include the Hawai'i Tourism
42 Authority, which gets more than seventy times the funding that
43 the Department of Hawaiian Home Lands receives, despite the
44 constitutional mandate for "sufficient sums"; now, therefore,



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 2 BE IT RESOLVED by the Senate of the Twenty-fifth
 3 Legislature of the State of Hawaii, Regular Session of 2009, the
 4 House of Representatives concurring, that the Governor and the
 5 Legislature are urged to acknowledge the State's trust
 6 responsibility to native Hawaiians under the Hawaiian Homes
 7 Commission Act and its constitutional duty to provide the
 8 Department of Hawaiian Home Lands with "sufficient sums" to fund
 9 its programs, loans, and administrative and operating budget,
 10 without compelling the Department of Hawaiian Home Lands to
 11 issue general leases of Hawaii home to non-beneficiaries lands
 12 to raise revenues; and

13
 14 BE IT FURTHER RESOLVED that the Governor, with cooperation
 15 from the Legislature, is requested to provide and release
 16 sufficient levels of funding for the administrative and
 17 operating budget of the Department of Hawaiian Home Lands,
 18 pursuant to which enjoys no such constitutional mandate for
 19 funding; and

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 21 BE IT FURTHER RESOLVED that the Hawaiian Homes Commission
 22 and the Department of Hawaiian Home Lands are requested to seek
 23 from the Legislature an adequate level of funding so the
 24 Hawaiian Homes Commission and the Department of Hawaiian Home
 25 Lands are released from the burden of general leasing to non-
 26 beneficiaries of Hawaiian home lands to generate revenues from
 27 risky commercial ventures; and

28
 29 BE IT FURTHER RESOLVED that certified copies of this
 30 Concurrent Resolution be transmitted to the Governor, the
 31 Chairperson of the Hawaiian Homes Commission, the Chairperson of
 32 the Board of Trustees of the Office of Hawaiian Affairs, who, in
 33 turn, is requested to transmit copies to Hui Kako'o Aina
 34 Ho'opulapula, the Sovereign Councils of the Hawaiian Homelands
 35 Assembly, Keaukaha Panaewa Farmers Association, and the Panaewa
 36 Hawaiian Home Lands Community Association, the Native Hawaiian
 37 Legal Corporation, and the members of Hawai'i's Congressional
 38 delegation.

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 41 OFFERED BY: 

