

FEB 10 2009

SENATE CONCURRENT RESOLUTION

URGING THE GOVERNOR AND THE ATTORNEY GENERAL TO WITHDRAW THE
APPEAL TO THE UNITED STATES SUPREME COURT OF THE HAWAII
STATE SUPREME COURT DECISION, OFFICE OF HAWAIIAN AFFAIRS V.
HOUSING AND COMMUNITY DEVELOPMENT CORPORATION OF HAWAII,
117 HAWAII 174 (2008).

1 WHEREAS, in 1978 the people of Hawai'i, in recognition of
2 the historic injustices committed against the Native Hawaiian
3 people, voted overwhelmingly to amend the Hawai'i State
4 Constitution to address those injustices; and
5

6 WHEREAS, in 1978, the people of Hawai'i amended the Hawai'i
7 State Constitution to include Article XII, Section 4, which
8 identifies the Native Hawaiian people and the general public as
9 the two beneficiaries of the public land trust; and
10

11 WHEREAS, other amendments adopted in 1978 to the Hawai'i
12 State Constitution include the establishment of the Office of
13 Hawaiian Affairs, protections of traditional and customary
14 rights of the Native Hawaiian people, adoption of the Hawaiian
15 language as one of the two official languages of Hawai'i, and a
16 mandate to include Hawaiian language, culture, and history
17 educational programs in the public schools; and
18

19 WHEREAS, the Seventeenth Legislature determined that 1993
20 should serve as a year of special reflection on the rights and
21 dignities of the Native Hawaiian people in Hawai'i and in
22 American society, and consistent with that determination, passed
23 a series of legislative enactments that further committed Hawai'i
24 to reconciliation with the Native Hawaiian people; and
25

26 WHEREAS, in House Concurrent Resolution No. 179, Regular
27 Session of 1993, the Legislature recognized the illegality of
28 the 1893 overthrow of the Kingdom of Hawai'i and the lingering
29 claims of the Native Hawaiian people to their national lands



1 with a request to the President and Congress to formally
2 apologize to the Native Hawaiian people for the overthrow; and
3

4 WHEREAS, in House Concurrent Resolution 213, Regular
5 Session of 1993, the Legislature recommitted itself to address
6 the historic wrongs committed against the Native Hawaiian people
7 by the United States government in the 1893 overthrow of the
8 Kingdom of Hawai'i; and
9

10 WHEREAS, in Act 354, Session Laws of Hawaii 1993, the
11 Legislature acknowledged that many Native Hawaiians believe
12 lands taken without the consent of the Native Hawaiian people
13 should be returned and if not, then monetary compensation should
14 be made; and
15

16 WHEREAS, in Act 354, Session Laws of Hawaii 1993, the
17 Legislature pledged its continued support to the Native Hawaiian
18 people by taking steps to promote the restoration of the rights
19 and dignity of the Native Hawaiian people and committed
20 substantial state resources to educate the general public about
21 Hawaiian sovereignty; and
22

23 WHEREAS, in Act 359, Session Laws of Hawaii 1993, the
24 Legislature found that in 1898, Hawai'i was annexed to the United
25 States through the Newlands Resolution without the consent of or
26 compensation to the indigenous people of Hawai'i or their
27 sovereign government, and that as a result, the indigenous
28 people of Hawai'i were denied the mechanism for expression of
29 their inherent sovereignty through self-government and
30 self-determination, their lands, and their ocean resources; and
31

32 WHEREAS, in Act 340, Session Laws of Hawaii 1993, the
33 Legislature placed the island of Kaho'olawe, a place of
34 extraordinary cultural significance, into the public land trust
35 under the condition that the State would eventually transfer the
36 management and control of Kaho'olawe to a future sovereign Native
37 Hawaiian entity upon its recognition by the United States and
38 the State; and
39

40 WHEREAS, in Act 340, Session Laws of Hawaii 1993, the
41 Legislature envisioned a future sovereign Native Hawaiian entity
42 capable of receiving the island of Kaho'olawe from the State, and
43 endorsed a broad and progressive view of the reconciliatory



1 process, which includes an entity representative of the Native
2 Hawaiian people capable of formally dealing with the State; and
3

4 WHEREAS, in Act 329, Session Laws of Hawaii 1997, the
5 Legislature found that the events of history set forth in the
6 1993 Federal Apology Resolution (Public Law 103-150), contribute
7 to "a deep sense of injustice among many Native Hawaiians" and
8 further recognized that "the lasting reconciliation so desired
9 by all people of Hawai'i" is possible only if the Legislature
10 fairly acknowledges the past; and
11

12 WHEREAS, the Governor has affirmed the State's commitment
13 to reconciliation with the Native Hawaiian people, and the
14 Legislature continues to believe that the health and well-being
15 of the Native Hawaiian people is intrinsically tied to deep
16 feelings of attachment to the land; and
17

18 WHEREAS, on January 31, 2008, the Hawai'i State Supreme
19 Court in Office of Hawaiian Affairs v. Housing Community
20 Development Corporation of Hawaii (117 Hawaii 174), interpreted
21 the State's trust obligation in relation to ceded lands under
22 state law and enjoined the State from selling or otherwise
23 transferring to third parties any ceded lands from the public
24 lands trust until the claims of the Native Hawaiian people to
25 the ceded lands have been resolved; and
26

27 WHEREAS, the Governor and Attorney General petitioned the
28 United States Supreme Court to review the decision of the Hawai'i
29 State Supreme Court and that petition has been granted; and
30

31 WHEREAS, the Legislature finds that pursuing such an action
32 is detrimental to the interests of all of the people of Hawai'i
33 and to the ongoing reconciliation process between the State and
34 the Native Hawaiian people; now, therefore,
35

36 BE IT RESOLVED by the Senate of the Twenty-fifth
37 Legislature of the State of Hawaii, Regular Session of 2009, the
38 House of Representatives concurring, that the Governor is urged
39 to withdraw the appeal to the United States Supreme Court of the
40 Hawai'i State Supreme Court decision, Office of Hawaiian Affairs
41 v. Housing and Community Development Corporation of Hawaii, 117
42 Hawaii 174 (2008); and
43

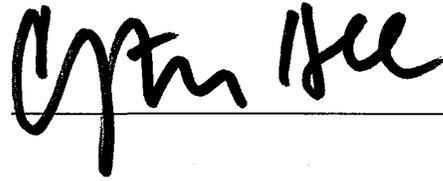


S.C.R. NO. 40

1 BE IT FURTHER RESOLVED that the Legislature declares the
2 public policy of the State of Hawai'i is to honor the decision of
3 the Hawai'i State Supreme Court; and
4

5 BE IT FURTHER RESOLVED that certified copies of this
6 Concurrent Resolution be transmitted to the Governor and the
7 Attorney General.
8
9
10

OFFERED BY:







SFS-SCR41

FEB 10 2009

SENATE CONCURRENT RESOLUTION

REQUESTING THE WESTERN ASSOCIATION OF SCHOOLS AND COLLEGES TO
AMEND ITS CONSTITUTION TO REFLECT A MORE EQUITABLE
GEOGRAPHIC REPRESENTATION AMONG THE TWENTY-SIX MEMBERS OF
THE ACCREDITING COMMISSION FOR SCHOOLS.

1 WHEREAS, the Western Association of Schools and Colleges
2 (WASC) is one of six regional accrediting associations in the
3 United States; and

4
5 WHEREAS, WASC provides assistance to schools located in
6 California, Hawaii, Guam, the Commonwealth of the Northern
7 Marianas, American Samoa, the Federated States of Micronesia,
8 the Republic of the Marshall Islands, Fiji, and East Asia; and

9
10 WHEREAS, the affairs of WASC are administered by a board of
11 directors composed of representatives from the following three
12 commissions:

- 13
14 (1) Accrediting Commission for Senior Colleges and
15 Universities;
16
17 (2) Accrediting Commission for Community and Junior
18 Colleges; and
19
20 (3) Accrediting Commission for Schools; and

21
22 WHEREAS, the Accrediting Commission for Schools is composed
23 of twenty-six members, selected by the Commission's Nomination
24 Review Committee from candidates nominated by member
25 organizations of the Commission; and

26
27 WHEREAS, of the twenty-six members, thirteen represent
28 California member organizations, three represent Hawaii member
29 organizations, and the remainder represent other organizations;
30 and



1 WHEREAS, in addition, the California Department of
2 Education and the Hawaii Department of Education each have an ex
3 officio seat on the Commission; and
4

5 WHEREAS, Hawaii's schools have graduated many distinguished
6 alumni, including two presidents: the current and forty-fourth
7 President of the United States, Barack Hussein Obama; and Dr.
8 Sun Yat-sen, the first President of the Republic of China; and
9

10 WHEREAS, Hawaii's schools offer educational and career
11 opportunities equal to any in the nation; and
12

13 WHEREAS, Hawaii schools, both public and private, are
14 accredited by the Western Association of Schools and Colleges;
15 and
16

17 WHEREAS, both the twenty-five member Accrediting Commission
18 for Senior Colleges and Universities and the nineteen-member
19 Accrediting Commission for Community and Junior Colleges are
20 less restrictive in the geographic requirements of their
21 membership; now, therefore,
22

23 BE IT RESOLVED by the Senate of the Twenty-fifth
24 Legislature of the State of Hawaii, Regular Session of 2009, the
25 House of Representatives concurring, that the Western
26 Association of Schools and Colleges is requested to amend its
27 Constitution to reflect a more equitable geographic
28 representation among the twenty-six members of the Accrediting
29 Commission for Schools by increasing the representation from
30 Hawaii and decreasing the representation from California so that
31 the two states have equal numbers of members on the Accrediting
32 Commission for Schools; and
33

34 BE IT FURTHER RESOLVED that certified copies of the
35 Concurrent Resolution be transmitted to the Executive Director
36 of the Western Association of Schools and Colleges, the
37 Executive Director of the Hawaii Government Employees
38 Association, the Executive Director of the Hawaii Association of
39 Independent Schools, and the Superintendent of Education.
40
41
42

OFFERED BY:

