HOUSE RESOLUTION

SUPPORTING A FULL MORATORIUM ON ANY SALE, EXCHANGE, OR ALIENATION OF CROWN OR GOVERNMENT LANDS OF THE FORMER KINGDOM OF HAWAII, CURRENTLY HELD IN PUBLIC TRUST BY THE STATE OF HAWAII, UNTIL THE LEGAL CLAIMS OF NATIVE HAWAIIAN PEOPLES AGAINST THE UNITED STATES AND STATE OF HAWAII ARE COMPLETELY RESOLVED.

WHEREAS, in the mid-1990's, the then Housing and Community Development Corporation of Hawaii, an agency of the State, attempted to transfer certain parcels of ceded lands on the islands of Maui and Hawaii to private entrepreneurs for the purposes of housing development; and

WHEREAS, on August 11, 1995, in Office of Hawaiian Affairs et al. v. Housing and Community Development Corporation of Hawaii, 117 H. 174, 177 P.3d 884, the Office of Hawaiian Affairs and certain individual native Hawaiians filed a law suit against the Housing and Community Development Corporation of Hawaii, the members of the board of directors of the Housing and Community Development Corporation of Hawaii, and the Governor of the State, seeking an injunction against the defendants from selling or otherwise transferring the parcels or any other ceded lands from the public land trust until the claims of native Hawaiians to the ceded lands have been resolved; and

WHEREAS, on December 5, 2002, the trial court ruled in favor of the defendants and the plaintiffs appealed the trial court's decision; and

WHEREAS, on January 31, 2008, the Supreme Court of the State of Hawaii vacated the trial court's judgment and remanded the case back to the trial court to issue an order granting the plaintiffs' request for an injunction against the defendants from selling or otherwise transferring the subject parcels to third parties, further extending the injunction against the defendants from selling or otherwise transferring "any other ceded lands from the public land trust until the claims of the native Hawaiians to the ceded lands have been resolved"; and
WHEREAS, on March 31, 2009, the United States Supreme Court reversed and remanded the case back to the Hawaii Supreme Court with certain instructions; and

WHEREAS, in response to the reversal and remand, the Legislature enacted and the Governor signed into law Act 176, Session Laws of Hawaii 2009; and

WHEREAS, Act 176 prohibits the sale or gift of any land or interest therein, not including available lands under the Hawaiian Homes Commission Act or remnants as defined in section 171-52, Hawaii Revised Statutes, owned or under control of any state departments classed as government or crown lands previous to August 15, 1895, without the prior approval of the sale or gift by the Legislature by concurrent resolution to be adopted by each house by at least two-thirds majority vote of the members to which each house is entitled in a regular or special session at which a concurrent resolution is submitted for approval of the sale or gift; and

WHEREAS, Act 176 does not adequately protect these crown or government lands in the public trust from alienation until the rights of native Hawaiians have completed resolved; now, therefore,

BE IT RESOLVED by the House of Representatives of the Twenty-fifth Legislature of the State of Hawaii, Regular Session of 2010, that all state and county agencies or departments holding title or any interest to any ceded lands in the public trust are urged to not consider the sale, gift, exchange, or otherwise transfer that interest until the legal claims of the Native Hawaiian peoples against the United States and the State of Hawaii are completely resolved; and

BE IT FURTHER RESOLVED that certified copies of this Resolution be transmitted to the Governor, the Mayor and Chairperson of the Council of each county, President of the Senate, and the Speaker of House of Representatives.

OFFERED BY: