

MAR 18 2009

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



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

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



S.R. NO. 133

1 BE IT RESOLVED by the Senate of the Twenty-fifth
2 Legislature of the State of Hawaii, Regular Session of 2009,
3 that the Governor and the Legislature are urged to acknowledge
4 the State's trust responsibility to native Hawaiians under the
5 Hawaiian Homes Commission Act and its constitutional duty to
6 provide the Department of Hawaiian Home Lands with "sufficient
7 sums" to fund its programs, loans, and administrative and
8 operating budget, without compelling the Department of Hawaiian
9 Home Lands to issue general leases of Hawaii home to non-
10 beneficiaries lands to raise revenues; and
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12 BE IT FURTHER RESOLVED that the Governor, with cooperation
13 from the Legislature, is requested to provide and release
14 sufficient levels of funding for the administrative and
15 operating budget of the Department of Hawaiian Home Lands,
16 pursuant to which enjoys no such constitutional mandate for
17 funding; and
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19 BE IT FURTHER RESOLVED that the Hawaiian Homes Commission
20 and the Department of Hawaiian Home Lands are requested to seek
21 from the Legislature an adequate level of funding so the
22 Hawaiian Homes Commission and the Department of Hawaiian Home
23 Lands are released from the burden of general leasing to non-
24 beneficiaries of Hawaiian home lands to generate revenues from
25 risky commercial ventures; and
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27 BE IT FURTHER RESOLVED that certified copies of this
28 Resolution be transmitted to the Governor, the Chairperson of
29 the Hawaiian Homes Commission, the Chairperson of the Board of
30 Trustees of the Office of Hawaiian Affairs, who, in turn, is
31 requested to transmit copies to Hui Kako'o Aina Ho'opulapula,
32 the Sovereign Councils of the Hawaiian Homelands Assembly,
33 Keaukaha Panaewa Farmers Association, and the Panaewa Hawaiian
34 Home Lands Community Association, the Native Hawaiian Legal
35 Corporation, and the members of Hawai'i's Congressional
36 delegation.
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OFFERED BY: 

