

MAR 16 2011

## SENATE RESOLUTION

REQUESTING THE ATTORNEY GENERAL TO INVESTIGATE GEOTHERMAL  
ROYALTIES.

1 WHEREAS, section 182-18, Hawaii Revised Statutes, relating  
2 to geothermal royalties, requires the Board of Land and Natural  
3 Resources to fix the payment of royalties to the State for the  
4 utilization of geothermal resources at a rate that will  
5 encourage the initial and continued production of such  
6 resources; and  
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8 WHEREAS, the payment of geothermal royalties to the State  
9 by Puna Geothermal Venture, which holds a public land lease to  
10 geothermal resources on the Island of Hawaii, may have an  
11 unintended consequence of increasing the cost of energy to  
12 consumers of electrical energy produced from geothermal energy;  
13 and  
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15 WHEREAS, the costs of royalty payments should be absorbed  
16 by Puna Geothermal Venture, rather than passed on to Hawaiian  
17 Electric Light Company, Inc., the utility that purchases  
18 geothermal energy from Puna Geothermal Venture; and  
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20 WHEREAS, any contract between Hawaiian Electric Light  
21 Company, Inc. and Puna Geothermal Venture should be scrutinized  
22 to ensure that the amount of royalty payments is not passed on  
23 to Hawaiian Electric Light Company, Inc. to be ultimately passed  
24 on to consumers residing on the Island of Hawaii; and  
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26 WHEREAS, federal law may allow for a so-called "avoided  
27 cost formula" that allows contracting parties to benefit from  
28 renewable energy by retaining for themselves the monies saved by  
29 converting from oil and gas fossil fuels to renewable energy  
30 sources like geothermal power, and this practice is inherently  
31 unfair to the general public who should themselves benefit from  
32 the cost savings; and  
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34 WHEREAS, Big Island residents reportedly have been billed  
35 for electricity in the last twenty years for oil and gas



1 consumption without credit for the twenty percent of the energy  
2 produced from geothermal energy; and  
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4 WHEREAS, it has come to the attention of the Legislature  
5 that the administration of geothermal royalties has worked to  
6 the detriment of Big Island residents, particularly Native  
7 Hawaiians whose property comprise ceded lands; and  
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9 WHEREAS, there could be illegal or excessive price fixing,  
10 profit taking, and even kickbacks associated with geothermal  
11 royalties; now, therefore,  
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13 BE IT RESOLVED by the Senate of the Twenty-sixth  
14 Legislature of the State of Hawaii, Regular Session of 2011,  
15 that the Attorney General is requested to conduct an  
16 investigation of:  
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- 18 (1) The payment of geothermal royalties, including amounts  
19 paid and other information that the Attorney General  
20 deems relevant to the issues mentioned in this  
21 measure;  
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- 23 (2) The special land and development fund under section  
24 171-19, Hawaii Revised Statutes, as it relates to  
25 deposits of geothermal royalties;  
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- 27 (3) The adequacy of annual reports submitted by the  
28 Department of Land and Natural Resources to the  
29 Legislature pursuant to section 182-18, Hawaii Revised  
30 Statutes, and in accordance with section 171-29,  
31 Hawaii Revised Statutes, on all geothermal royalty  
32 dispositions;  
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- 34 (4) Any other matters that the Attorney General deems  
35 relevant to the investigation to ensure that  
36 geothermal royalties are administered in a fair,  
37 legal, and ethical manner; and  
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- 39 (5) Recommendations for legislation; and  
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41 BE IT FURTHER RESOLVED that Puna Geothermal Venture and  
42 Hawaiian Electric Light Company, Inc., are requested to  
43 cooperate in any way with the Attorney General, including  
44 disclosing lease provisions for geothermal energy and verifying



actual costs relating to Puna Geothermal Venture's current income and expenses; and

BE IT FURTHER RESOLVED that the Attorney General assess the impact of any federal laws on geothermal royalties; and

BE IT FURTHER RESOLVED that the Attorney General report findings and recommendations to the Legislature before the Regular Session of 2012; and

BE IT FURTHER RESOLVED that certified copies of this Resolution be transmitted to the State Attorney General; Director of Finance; Chairperson of the Board of Land and Natural Resources; Director of Business, Economic Development, and Tourism; Chairperson of the Board of Trustees of the Office of Hawaiian Affairs; Hawaiian Electric Light Company, Inc.; and Puna Geothermal Venture.

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