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## HOUSE CONCURRENT RESOLUTION

REQUESTING THE PRESIDENT OF THE UNITED STATES TO RETURN TO THE STATE ALL RECREATIONAL FACILITIES ON HAWAII PUBLIC LANDS THAT ARE NO LONGER REQUIRED FOR THE DEFENSE OF THE UNITED STATES, INCLUDING FORT DERUSSY AND THE HALE KOA HOTEL, PURSUANT TO THE HAWAII ADMISSION ACT, AND AS FURTHER REQUIRED BY PUBLIC LAW 88-233.

1           WHEREAS, the Hale Koa Hotel is an eight-hundred-seventeen-  
2 room United States Armed Forces recreation center resort  
3 occupying nine acres of prime Waikiki beachfront within the  
4 seventy-two-acre Fort DeRussy Military Reservation, operating as  
5 a commercial hospitality enterprise that competes directly with  
6 the State's visitor industry while paying no transient  
7 accommodations tax, no general excise tax, no property tax, and  
8 no rent to the State of Hawaii or to the public land trust, and  
9 sitting on former crown and government lands that the federal  
10 government has no legitimate need to retain for military  
11 defense; and

12  
13           WHEREAS, the lands now known as Fort DeRussy, part of the  
14 Kalia district of Waikiki, were historically a landscape of  
15 rivers, taro patches, fishponds, and freshwater springs and were  
16 acquired by the United States War Department through General  
17 Order 20 in 1906 for a military reservation, initially  
18 designated the Kalia Military Reservation and renamed Fort  
19 DeRussy in 1909; and

20  
21           WHEREAS, Territorial Governor Lucius E. Pinkham issued  
22 executive orders in 1911, 1917, and 1918, which set aside these  
23 crown and government lands for federal military use, after which  
24 the Army destroyed the fishponds and wetlands by continuously  
25 pumping dredged ocean fill for nearly one year; and  
26



1           WHEREAS, Battery Randolph was constructed between 1909 and  
2 1911 as part of the coastal defense of Honolulu Harbor and was  
3 equipped with two fourteen-inch guns that were the largest in  
4 the Pacific; and  
5

6           WHEREAS, those guns never fired a shot in defense, because  
7 their fourteen-mile range had been rendered obsolete by the  
8 eighteen-mile accuracy of enemy warships by 1941; and  
9

10           WHEREAS, the Army itself acknowledged this obsolescence by  
11 redesignating Fort DeRussy as a rest and recuperation center in  
12 June 1942, placing the batteries on standby status in 1943,  
13 declaring the guns surplus in 1944, decommissioning the guns by  
14 1946 razing the fort's Battery Dudley to the ground in 1969, and  
15 disbanding the Coastal Artillery Corps in 1950; and  
16

17           WHEREAS, notwithstanding this record, Army Secretary Wilber  
18 M. Brucker designated Fort DeRussy a "permanent installation" in  
19 1956, an administrative label that carries no legal weight under  
20 the Admission Act; and  
21

22           WHEREAS, in 1975, the Department of Defense constructed the  
23 Hale Koa Hotel, a fifteen-story resort, on nine of the  
24 beachfront acres; and the fort's entire history since 1942 has  
25 consisted exclusively of recreation, lodging, museum operation,  
26 and administrative education, none of which constitutes a  
27 military defense purpose sufficient to justify the continued  
28 retention of these former crown and government lands under  
29 section 5(e) of the Admission Act, *P.L. 86-3*; and  
30

31           WHEREAS, the Heritage Foundation, in a 1982 report titled  
32 "Surplus Federal Property: It's Time to Sell," identified Fort  
33 DeRussy by name as surplus federal property, noting that, of its  
34 seventy-two acres, seventeen beachfront acres were "currently  
35 unused" and were valued at approximately \$13,000,000 per acre at  
36 1982 prices; and  
37

38           WHEREAS, Fort DeRussy is part of 432,725.91 acres of crown  
39 and government lands seized by the federal government between  
40 1900 and 1959, as documented by the Legislative Reference



1 Bureau's 1969 report, "Public Land Policy In Hawaii: An  
2 Historical Analysis"; and

3  
4 WHEREAS, federal law provides for the return of Hawaii's  
5 lands to the public land trust, via section 5(e) of the  
6 Admission Act of 1959, P.L. 86-3, which specifies that each  
7 federal agency having control over retained crown and government  
8 lands shall report to the President of the United States  
9 (President) regarding its continued need for such lands, and if  
10 the President determines the lands are no longer needed by the  
11 United States, they shall be conveyed to the State of Hawaii;  
12 and via Public Law 88-233, enacted by Congress in December 1963,  
13 which ensured that the return mechanism would continue to  
14 operate beyond the original five-year deadline; and

15  
16 WHEREAS, United States Senator Daniel K. Inouye, testifying  
17 in the 1963 Senate Subcommittee on Public Lands hearings leading  
18 to the passage of Public Law 88-233, said that "[t]hese lands  
19 were held in trust by the federal government for the people of  
20 Hawaii, with the eventual hope that they would be returned, when  
21 federal need was not present[,]" Senator Inouye also argued that  
22 even lands declared surplus after the five-year deadline should  
23 be returned at no cost because "[w]e feel this is not equitable,  
24 and I do not think this was within the intent of the Members of  
25 Congress"; and

26  
27 WHEREAS, Senator Hiram L. Fong, testifying at the same 1963  
28 hearing, spoke directly to the injustice of the federal  
29 government's retention of Hawaii's lands, stating "Justice is on  
30 our side. We are asking for the return of lands not needed by  
31 the federal government--lands that represent a tiny fraction  
32 compared with the 1,275,000 acres the Territory of Hawaii gave  
33 to the federal government without cost at annexation," and  
34 further noting "As against 1,600 acres Hawaii gave free of  
35 charge to the federal government 410,000 [at Statehood]. Surely  
36 Congress did intend to compensate Hawaii for these acres"; and

37  
38 WHEREAS, Kermit Gordon, then Director of the United States  
39 Bureau of the Budget, confirmed the validity of Hawaii's claim  
40 in 1963 correspondence to Vice-President Lyndon Johnson, stating  
41 "We believe that Hawaii has a unique claim on the lands and



1 property involved since they were originally given to the United  
2 States by the Republic or Territory of Hawaii. That claim and  
3 the special status of those lands and property have been  
4 recognized by the United States for many years"; and  
5

6 WHEREAS, the federal portfolio includes substantial lands  
7 not used for national defense purposes, but rather for hotels,  
8 short-term vacation rentals, golf courses, marinas, and beach  
9 resorts operated exclusively for the recreation of military-  
10 affiliated patrons, and that should rightfully be available for  
11 the wellness and recreation of all the people of Hawaii,  
12 including lands comprising the Hale Koa Hotel; the Bellows Air  
13 Force Station recreational area in Waimanalo, which occupies a  
14 pristine stretch of windward Oahu coastline with one hundred  
15 seventeen lodging units, including beachfront cabins,  
16 condominiums, and campsites; the Pihlilaau Army Recreation Center  
17 in Waianae, which includes cottages at Pokai; the Barbers Point  
18 beach cottages at Kalaeloa; the recreational beach cottages,  
19 cabanas, Klipper Villas, and golf course on a Native Hawaiian  
20 burial site at Mokapu; the Kilauea Military Camp, a ninety-  
21 two-unit lodge and cottage complex within Hawaii Volcanoes  
22 National Park on the island of Hawaii; the Barbers Point Golf  
23 Course at Kalaeloa; the Leilehua Golf Course in Wahiawa; the  
24 Mamala Bay Golf Course at Keehi; the marina at Ke Awalau o  
25 Puuloa; and all associated Morale, Welfare and Recreation  
26 facilities across every major island, all of which operate on  
27 former crown and government lands for the exclusive benefit of a  
28 restricted class of patrons rather than for the people of Hawaii  
29 as a whole, and none of which are essential for the defense of  
30 the United States; and  
31

32 WHEREAS, the federal government has used, occupied, and  
33 controlled crown and government lands of the Hawaiian Kingdom  
34 for military and non-military purposes since 1900 without paying  
35 fair market rent to the Territory or State of Hawaii; without  
36 contributing any revenue to the public land trust established  
37 under section 5(f) of the Admission Act, P.L. 86-3; and without  
38 making any payment to the Office of Hawaiian Affairs for the  
39 benefit of Native Hawaiians; and  
40



1 WHEREAS, established principles of federal and state law  
2 support the conclusion that the uncompensated federal retention  
3 and use of crown and government lands constitutes a compensable  
4 taking and breach of trust; and

5  
6 WHEREAS, the United States Supreme Court held in *United*  
7 *States v. Sioux Nation of Indians*, 448 U.S. 371 (1980), that the  
8 federal government's seizure of indigenous lands without  
9 adequate consideration constitutes a Fifth Amendment taking  
10 requiring just compensation, and awarded compensation with  
11 interest compounded from the date of the original dispossession;  
12 and

13  
14 WHEREAS, the Supreme Court held in *Loretto v. Teleprompter*  
15 *Manhattan CATV Corp.*, 458 U.S. 419 (1982), and reaffirmed in  
16 *Cedar Point Nursery v. Hassid*, 594 U.S. 139 (2021), that a  
17 permanent physical occupation of property by or at the direction  
18 of the government constitutes a per se taking regardless of the  
19 public benefit conferred; and

20  
21 WHEREAS, the Hawaii Supreme Court held in *Ahuna v.*  
22 *Department of Hawaiian Home Lands*, 64 Haw. 327 (1982), that the  
23 State's obligations to Native Hawaiian trust beneficiaries  
24 constitutes a fiduciary duty of the highest order; and

25  
26 WHEREAS, the Hawaii Supreme Court held in *Office of*  
27 *Hawaiian Affairs v. Housing and Community Development*  
28 *Corporation of Hawaii*, 117 Haw. 174 (2008), that Native  
29 Hawaiians possess unrelinquished claims to the ceded lands and  
30 that the State has a fiduciary duty not to alienate those lands  
31 until such claims are resolved, an analysis that the United  
32 States Supreme Court in *Hawaii v. Office of Hawaiian Affairs*,  
33 556 U.S. 163 (2009), reversed only on the narrow question of the  
34 1993 Apology Resolution's operative legal effect while leaving  
35 the underlying state-law trust obligations undisturbed; and

36  
37 WHEREAS, the Legislature finds that these authorities,  
38 taken together, establish that the federal government's  
39 permanent physical occupation of former crown and government  
40 lands for purposes unrelated to military defense--lands  
41 impressed with a trust for the benefit of the inhabitants of



1 Hawaii since at least the Joint Resolution of Annexation of 1898  
2 and formalized under section 5(f) of the Admission Act, P.L. 86-  
3 3--without payment of fair market rent to the public land trust  
4 or to the Office of Hawaiian Affairs constitutes both a per se  
5 taking under the Fifth Amendment and a continuing breach of the  
6 fiduciary obligations recognized by Congress, the Hawaii State  
7 Constitution, and the courts of this State; and

8  
9 WHEREAS, the State of Hawaii has a fiduciary obligation to  
10 its citizens, and particularly to Native Hawaiians as named  
11 beneficiaries of the public land trust, to pursue all lawful  
12 means to recover former crown and government lands that are no  
13 longer being used for the purposes for which they were retained  
14 and to seek fair compensation for the uncompensated use of those  
15 lands; and the Legislature seeks the return of all lands no  
16 longer needed for legitimate military purposes, beginning with  
17 the Hale Koa Hotel; now, therefore,

18  
19 BE IT RESOLVED by the House of Representatives of the  
20 Thirty-third Legislature of the State of Hawaii, Regular Session  
21 of 2026, the Senate concurring, that the President of the United  
22 States is requested to determine that federal recreational  
23 facilities on Hawaii public lands, including Fort DeRussy and  
24 the Hale Koa Hotel, are no longer required for the defense of  
25 the United States, pursuant to the Admission Act, P.L. 86-3, and  
26 as further required by Public Law 88-233; and

27  
28 BE IT FURTHER RESOLVED that the President is requested to  
29 order the immediate conveyance of these public lands to the  
30 State of Hawaii; and

31  
32 BE IT FURTHER RESOLVED that the Legislature believes and  
33 declares that the continued federal retention of the Hale Koa  
34 Hotel, Fort DeRussy lands, and other non-defense recreational  
35 and leisure facilities does not constitute a legitimate federal  
36 need sufficient to justify withholding these former crown and  
37 government lands from the public land trust; and

38  
39 BE IT FURTHER RESOLVED that the Legislature requests the  
40 President to direct a comprehensive review of all federally  
41 retained lands in the State of Hawaii, including but not limited



1 to the set aside lands and all lands under sixty-five-year  
2 leases executed in 1964 at the nominal charge of one dollar per  
3 lease, to determine which lands are no longer needed for  
4 legitimate military defense purposes and should be immediately  
5 returned to the State, as contemplated by the framers of the  
6 Admission Act and as advocated by Senator Daniel K. Inouye,  
7 Senator Hiram L. Fong, and Governor John A. Burns; and

8  
9 BE IT FURTHER RESOLVED that the Legislature declares,  
10 consistent with the testimony of Senator Daniel K. Inouye, that  
11 the lands retained by the federal government were held in trust  
12 for the people of Hawaii with the expectation that they would be  
13 returned when no longer needed, and that federal agencies have a  
14 continuing obligation to report on their need for such lands and  
15 to release those lands that are no longer necessary for the  
16 defense of the United States; and

17  
18 BE IT FURTHER RESOLVED that the Legislature declares,  
19 consistent with the testimony of Senator Hiram L. Fong, that at  
20 annexation the federal government took approximately 1,800,000  
21 acres of crown and government lands, that the Territory further  
22 gave to the federal government an additional 410,000 acres at  
23 statehood, and that the law requires the return of all lands no  
24 longer serving a legitimate military purpose; and

25  
26 BE IT FURTHER RESOLVED that upon conveyance, all lands  
27 comprising Fort DeRussy Military Reservation and any other  
28 returned federal lands shall be incorporated into the public  
29 land trust established under section 5(f) of the Admission Act  
30 and Article XII, section 4 of the Hawaii State Constitution, and  
31 shall be managed and administered in accordance with the five  
32 trust purposes enumerated therein; and

33  
34 BE IT FURTHER RESOLVED that the State of Hawaii, in  
35 partnership with the Office of Hawaiian Affairs, shall develop a  
36 comprehensive land use plan for the returned Fort DeRussy lands  
37 that prioritizes cultural restoration of the Kalia district and  
38 the healing site of Kawehewehe, public access to the shoreline,  
39 revenue generation for public land trust beneficiaries, and the  
40 betterment of the conditions of Native Hawaiians; and

41



1 BE IT FURTHER RESOLVED that the Governor is requested to  
2 engage the Hawaii Congressional delegation, the United States  
3 Department of Defense, the United States Department of the  
4 Interior, and the Office of Management and Budget to facilitate  
5 the expeditious return of the Fort DeRussy lands and all other  
6 unneeded federal lands to the State; and

7  
8 BE IT FURTHER RESOLVED that the Attorney General of the  
9 State of Hawaii is requested to evaluate all available legal  
10 avenues, including but not limited to litigation under the  
11 Admission Act, Public Law 88-233, federal land transfer  
12 statutes, and applicable trust law, to compel the return of the  
13 Fort DeRussy lands and other unneeded federal lands if the  
14 federal government fails to act voluntarily; and

15  
16 BE IT FURTHER RESOLVED that the Public Land Trust Working  
17 Group is requested to agendize and request legislative funding  
18 for a comprehensive independent appraisal of all federally-  
19 occupied crown and government lands to determine the precise  
20 fair market rental value, both current and cumulative, owed to  
21 the State and to the public land trust, and to transmit the  
22 results of the resulting appraisal to the Legislature, the  
23 Office of Hawaiian Affairs, and the Hawaii congressional  
24 delegation no later than twenty days prior to the convening of  
25 the Regular Session of 2027; and

26  
27 BE IT FURTHER RESOLVED that the Legislature recognizes and  
28 honors the service of the men and women of the United States  
29 Armed Forces, and that nothing in this measure is intended to  
30 diminish the contributions of military service members, but  
31 rather to assert the rightful claims of the people of Hawaii to  
32 lands that are no longer serving a military defense purpose,  
33 consistent with the clear intent of the Admission Act and the  
34 bipartisan consensus expressed by Hawaii's leaders across party  
35 lines since statehood; and

36  
37 BE IT FURTHER RESOLVED that certified copies of this  
38 Concurrent Resolution be transmitted to the President of the  
39 United States, Attorney General of the United States, Secretary  
40 of Defense, Secretary of the Interior, Secretary of the Army,  
41 Director of the Office of Management and Budget, members of

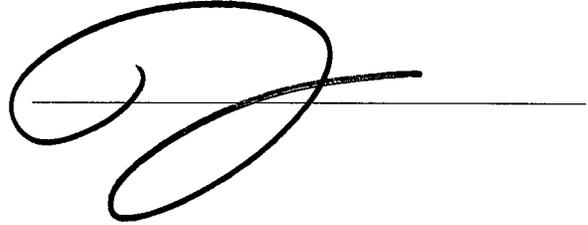


# H.C.R. NO. 199

1 Hawaii's congressional delegation, Governor, Attorney General,  
2 Chairperson of the Board of Trustees of the Office of Hawaiian  
3 Affairs, Chairperson of the Board of Land and Natural Resources,  
4 and Director of the Daniel K. Inouye Asia-Pacific Center for  
5 Security Studies.

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8

OFFERED BY: \_\_\_\_\_

A large, stylized handwritten signature in black ink, written over a horizontal line.

MAR 16 2026

