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## HOUSE CONCURRENT RESOLUTION

URGING THE COUNTIES TO ADOPT MEASURES THAT PROVIDE REAL PROPERTY  
TAX RELIEF FOR OWNERS OF KULEANA LANDS.

1           WHEREAS, King Kamehameha III recognized that the aina, or  
2 land, did not belong to him, but belonged to the people of  
3 Hawaii who had an interest in the land and that he was the  
4 trustee; and

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6           WHEREAS, the Kuleana Act of 1850 created Hawaii's first  
7 system of private land ownership; and

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9           WHEREAS, through the Kuleana Act, King Kamehameha III  
10 created a process that allowed the people of Hawaii to claim and  
11 obtain fee simple title to their family kuleana, or the land  
12 where their family homes were built and where they grew their  
13 food; and

14  
15           WHEREAS, King Kamehameha III intended for the Kuleana Act  
16 to allow Hawaiians to secure these kuleana lands for their  
17 subsistence, as their ancestors had done; and

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19           WHEREAS, in order to carry out the intent of the Kuleana  
20 Act, King Kamehameha III reserved important rights of access and  
21 water to support the continued occupancy of kuleana lands and  
22 the continued practice of subsistence living, that at a minimum  
23 provided a place to live and grow food; and

24  
25           WHEREAS, the kuleana lands awarded under the Kuleana Act  
26 were recognized by Hawaiian ancestors as being the most  
27 desirable places to live and were the best lands for subsistence  
28 food production; and

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30           WHEREAS, kuleana lands are some of the most historically,  
31 culturally, and environmentally significant lands in Hawaii; and  
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1 WHEREAS, at the time of the enactment of the Kuleana Act,  
2 kuleana lands made up only one-tenth of one per cent of the land  
3 in Hawaii; and  
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5 WHEREAS, the number of kuleana land parcels has  
6 significantly decreased as a result of condemnation,  
7 development, and the tremendous tax increases that have been  
8 caused by speculative real estate practices; and  
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10 WHEREAS, article XII, section 7 of the state constitution  
11 provides that the State "reaffirms and shall protect all rights,  
12 customarily and traditionally exercised for subsistence,  
13 cultural, and religious purposes and possessed by ahupua'a  
14 tenants who are descendants of native Hawaiians who inhabited  
15 the Hawaiian Islands prior to 1778, subject to the right of the  
16 State to regulate such rights"; and  
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18 WHEREAS, the owners of the small number of kuleana lands  
19 that remain today face serious challenges to their ability to  
20 carry out and continue the traditional and customary practices  
21 of subsistence living in their ahupua'a, because the increasing  
22 real property taxes places serious and unreasonable financial  
23 burdens on the kuleana land owners; and  
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25 WHEREAS, the increases in property tax due on kuleana lands  
26 have been astronomical, especially in rural areas that are  
27 experiencing real estate speculation and development, that  
28 results in the exponential increase of property assessments for  
29 those kuleana lands; and  
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31 WHEREAS, the typical traditional use of kuleana lands as a  
32 site for a family home and place for growing food makes it  
33 impossible to raise the revenue to pay the increased property  
34 taxes; and  
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36 WHEREAS, compelling kuleana land owners to generate revenue  
37 to match the rise in real property taxes contradicts the  
38 original purpose of the kuleana lands and is incompatible with  
39 the mandate of the state constitution to protect and reaffirm  
40 traditional and customary subsistence practices; and  
41

42 WHEREAS, the kuleana lands used in subsistence living and  
43 food production promotes a public policy of the State and  
44 provides valuable and irreplaceable cultural, historical, and



1 environmental assets for the counties in which they are located  
2 and the value of which encompasses much more than any short term  
3 financial gain that might accrue from their loss; and  
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5 WHEREAS, in many instances, the increased amount of real  
6 property taxes has compelled the sale or loss of the kuleana  
7 lands in real property tax auctions because of the landowner's  
8 inability to afford the increasingly burdensome taxes assessed  
9 on the kuleana lands; and  
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11 WHEREAS, the State resolutely avows its constitutional  
12 mandate to "reaffirm and protect all rights customarily  
13 exercised for subsistence" on the kuleana lands of the State  
14 that provide essential cultural, historical, and environmental  
15 assets that contributes toward maintaining a culture and society  
16 that is unique and deserving of protection; and  
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18 WHEREAS, without some form of recognition and property  
19 designation, it appears inevitable that owners of the few  
20 remaining kuleana lands will suffer severe hardships that  
21 threaten their existence and undermine the very subsistence life  
22 that provide Hawaii and its people with a unique identity; and  
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24 WHEREAS, this continuing threat to the capacity and  
25 continuing existence of the use of kuleana lands for traditional  
26 subsistence and culture is unacceptable as a matter of public  
27 policy; now, therefore,  
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29 BE IT RESOLVED by the House of Representatives of the  
30 Twenty-fifth Legislature of the State of Hawaii, Regular Session  
31 of 2009, the Senate concurring, that the counties are urged to  
32 adopt measures that provide real property tax relief for owners  
33 of kuleana lands, and:  
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- 35 (1) Recognize the value of protecting the rights that are  
36 customarily and traditionally exercised for  
37 subsistence, cultural, and religious purposes on  
38 kuleana lands, as stated in the state constitution;  
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- 40 (2) Include a more appropriate method for assessing these  
41 properties, consistent with the reaffirmation and  
42 protection of traditional and customary subsistence  
43 practices and free from the dictates of real property  
44 speculation and development so that any assessments of



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1 such taxes are maintained at a reasonable level or  
2 exempted all together;

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4 (3) Mandate a taxpayer information campaign to inform all  
5 such kuleana land owners who wish to continue living  
6 in a traditional manner of the availability of the tax  
7 relief provided and means to obtain the relief; and

8  
9 (4) Incorporate consultation with the Office of Hawaiian  
10 Affairs to design an appropriate means of qualifying  
11 for the subsistence exemption; and  
12

13 BE IT FURTHER RESOLVED that certified copies of this  
14 Concurrent Resolution be transmitted to the Mayor and the  
15 Chairperson of the Council of each county, the Chairperson of  
16 the Board of Trustees of the Office of Hawaiian Affairs, the  
17 Executive Director of the Native Hawaiian Legal Corporation, and  
18 the Director of the Kamakaukuokalani Center for Hawaiian Affairs  
19 at the University of Hawaii.  
20  
21  
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OFFERED BY:

Mele Canale

[Signature]

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Tom Brower

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