

MAR 14 2011

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# SENATE CONCURRENT 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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1 WHEREAS, Big Island residents reportedly have been billed  
2 for electricity in the last twenty years for oil and gas  
3 consumption without credit for the twenty percent of the energy  
4 produced from geothermal energy; and

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6 WHEREAS, it has come to the attention of the Legislature  
7 that the administration of geothermal royalties has worked to  
8 the detriment of Big Island residents, particularly Native  
9 Hawaiians whose property comprise ceded lands; and

10  
11 WHEREAS, there could be illegal or excessive price fixing,  
12 profit taking, and even kickbacks associated with geothermal  
13 royalties; now, therefore,

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15 BE IT RESOLVED by the Senate of the Twenty-sixth  
16 Legislature of the State of Hawaii, Regular Session of 2011, the  
17 House of Representatives concurring, that the Attorney General  
18 is requested to conduct an investigation of:

- 19  
20 (1) The payment of geothermal royalties, including amounts  
21 paid and other information that the Attorney General  
22 deems relevant to the issues mentioned in this  
23 measure;
- 24  
25 (2) The special land and development fund under section  
26 171-19, Hawaii Revised Statutes, as it relates to  
27 deposits of geothermal royalties;
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29 (3) The adequacy of annual reports submitted by the  
30 Department of Land and Natural Resources to the  
31 Legislature pursuant to section 182-18, Hawaii Revised  
32 Statutes, and in accordance with section 171-29,  
33 Hawaii Revised Statutes, on all geothermal royalty  
34 dispositions;
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36 (4) Any other matters that the Attorney General deems  
37 relevant to the investigation to ensure that  
38 geothermal royalties are administered in a fair,  
39 legal, and ethical manner; and
- 40  
41 (5) Recommendations for legislation; and

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43 BE IT FURTHER RESOLVED that Puna Geothermal Venture and  
44 Hawaiian Electric Light Company, Inc., are requested to



1 cooperate in any way with the Attorney General, including  
2 disclosing lease provisions for geothermal energy and verifying  
3 actual costs relating to Puna Geothermal Venture's current  
4 income and expenses; and

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

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

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

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OFFERED BY:

Michelle Indani

Malama Glenn  
Diana W. DeLoe  
Sierra Kelley  
John J. ...  
D. ...

