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# A BILL FOR AN ACT

RELATING TO RENEWABLE ENERGY REVENUE.

**BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:**

1           SECTION 1. Pursuant to article XII, section 1, of the  
2 state constitution, thirty per cent of the state receipts  
3 derived from lands previously cultivated as sugarcane lands  
4 under any other provision of law and from water licenses are  
5 allocated to the native Hawaiian rehabilitation fund. This fund  
6 is designated in the Hawaiian Homes Commission Act of 1920, as  
7 amended, to be used for the rehabilitation of native Hawaiians,  
8 native Hawaiian families, and Hawaiian homestead communities,  
9 which includes the educational, economic, political, social, and  
10 cultural processes by which the general welfare and conditions  
11 of native Hawaiians are thereby improved and perpetuated.

12           Since 1994, these former sugarcane lands have been managed  
13 by the agribusiness development corporation, a public  
14 corporation with a mission that is not aimed at revenue  
15 generation. The decline of sugarcane production in Hawaii  
16 coupled with the change in management of these lands has  
17 resulted in a sixty-seven per cent decline in deposits to the  
18 native Hawaiian rehabilitation fund from 1994 to 2007.



1           The legislature finds that an additional revenue stream for  
2 the native Hawaiian rehabilitation fund must be identified to  
3 continue existing programs for native Hawaiians, native Hawaiian  
4 families, and Hawaiian homestead communities.

5           SECTION 2. Section 213, Hawaiian Homes Commission Act,  
6 1920, as amended, is amended by amending subsection (i) to read  
7 as follows:

8           "(i) Native Hawaiian rehabilitation fund. Pursuant to  
9 Article XII, Section 1, of the Hawaii Constitution, thirty per  
10 cent of the state receipts[~~r~~] derived from lands previously  
11 cultivated as sugarcane lands under any other provision of law  
12 and from water licenses, [~~and~~] fifteen per cent of all revenues  
13 from lease agreements granted lease extensions pursuant to  
14 section 228, fifteen per cent of geothermal royalties collected  
15 by the State pursuant to sections 182-7 and 182-18, Hawaii  
16 Revised Statutes, from mining leases executed after July 1,  
17 2012, and thirty per cent of all revenues collected by the State  
18 from the disposition of state lands to nongeothermal renewable  
19 energy producers made after July 1, 2012, pursuant to section  
20 171-95, Hawaii Revised Statutes, shall be deposited into this  
21 fund. The department shall use this money for the  
22 rehabilitation of native Hawaiians, native Hawaiian families,



1 and Hawaiian homestead communities, which shall include the  
2 educational, economic, political, social, and cultural processes  
3 by which the general welfare and conditions of native Hawaiians  
4 are thereby improved and perpetuated.

5 The native Hawaiian rehabilitation fund shall be subject to  
6 the following conditions:

7 (1) All moneys received by the fund shall be deposited  
8 into the state treasury and kept separate and apart  
9 from all other moneys in the state treasury;

10 (2) The director of finance shall serve as a custodian of  
11 the fund. All payments from the fund shall be made by  
12 the director of finance only upon vouchers approved by  
13 the commission;

14 (3) The commission shall develop guidelines for the  
15 investment of moneys in the fund;

16 (4) The commission may invest and reinvest in investments  
17 authorized by chapter 88, Hawaii Revised Statutes.

18 The commission may hold, purchase, sell, assign,  
19 transfer, or dispose of any securities and investments  
20 in which any of the moneys shall have been invested,  
21 as well as the proceeds of such investments; and

1 (5) The commission may pay out of any of the moneys held  
2 for investment, a reasonable amount to any person for  
3 supplying investment advisory or consultive services;  
4 and to meet such other costs incident to the prudent  
5 investment of moneys as the commission may approve.

6 Any payment of principal, interest, or other earnings  
7 arising out of the loan or investment of money from this fund  
8 shall be credited to and deposited into this fund.

9 Sections 214, 215, 216, and 217 shall not apply to  
10 administration of this fund. The department is authorized to  
11 adopt rules under chapter 91, Hawaii Revised Statutes, necessary  
12 to administer and carry out the purposes of this fund.

13 The department shall submit an annual report to the  
14 legislature and the United States Department of the Interior, no  
15 later than twenty days prior to the convening of each regular  
16 session of the legislature, beginning with the regular session  
17 of 2011, on expenditures from this fund that are derived from  
18 the amounts deposited from commercial and multipurpose project  
19 lease extensions pursuant to section 228(e), including the  
20 amount expended, the recipient of the moneys expended, and the  
21 purpose of the expenditure."



1 SECTION 3. Section 171-95, Hawaii Revised Statutes, is  
2 amended by amending subsection (a) to read as follows:

3 "(a) Notwithstanding any limitations to the contrary, the  
4 board of land and natural resources may, without public auction:

5 (1) Sell public lands at such price and on such other  
6 terms and conditions as the board may deem proper to  
7 governments, including the United States, city and  
8 county, counties, other governmental agencies  
9 authorized to hold lands in fee simple and public  
10 utilities;

11 (2) Lease to the governments, agencies, public utilities,  
12 and renewable energy producers public lands for terms  
13 up to, but not in excess of, sixty-five years at such  
14 rental and on such other terms and conditions as the  
15 board may determine; provided that thirty per cent of  
16 any revenue from any disposition to a nongeothermal  
17 renewable energy producer made after July 1, 2012,  
18 shall be paid to the department of Hawaiian home lands  
19 and shall be deposited into the native Hawaiian  
20 rehabilitation fund;

21 (3) Grant licenses and easements to the governments,  
22 agencies, public utilities, and renewable energy



1 producers on such terms and conditions as the board  
2 may determine for road, pipeline, utility,  
3 communication cable, and other rights-of-way;

4 (4) Exchange public lands with the governments and  
5 agencies;

6 (5) Execute quitclaim deeds to the governments and  
7 agencies, with or without consideration, releasing any  
8 claim to the property involved made upon disputed  
9 legal or equitable grounds, whenever the board in its  
10 discretion deems it beneficial to the State; and

11 (6) Waive or modify building and other requirements and  
12 conditions contained in deeds, patents, sales  
13 agreements, or leases held by the governments and  
14 agencies whenever such waiver or modification is  
15 beneficial to the State."

16 SECTION 4. Section 182-7, Hawaii Revised Statutes, is  
17 amended by amending subsection (c) to read as follows:

18 "(c) The payments to the State as fixed by the board shall  
19 be specified; provided that:

20 (1) In the case of bauxite, bauxitic clay, gibbsite,  
21 diaspore, boehmite, and all ores of aluminum, the  
22 amount of royalties for each long dry ton of ore as



1           beneficiated shall not be less than twenty-five cents  
2           or the equivalent of the price of one pound of virgin  
3           pig aluminum, whichever is higher, nor shall it exceed  
4           the equivalent of the price of three pounds of virgin  
5           pig aluminum;

6           (2) The rate of royalty for ore processed into aluminous  
7           oxide in the State shall be set at eighty per cent of  
8           the rate of royalty for ore not processed to aluminous  
9           oxide in the State; and

10          (3) The royalty shall be fixed at a rate [~~which~~] that will  
11          tend to encourage the establishment and continuation  
12          of the mining industry in the State.

13          The prices of virgin pig aluminum for the purpose of  
14          determining the royalties under this section shall be the basic  
15          price on the mainland United States market for virgin pig, not  
16          refined, f.o.b. factory. The royalties shall be in lieu of any  
17          severance or other similar tax on the extracting, producing,  
18          winning, beneficiating, handling, storing, treating, or  
19          transporting of the mineral or any product into which it may be  
20          processed in the State, and shall not be subject to reopening or  
21          renegotiating for and during the first twenty years of the lease  
22          term.



1 In the event the lessee desires to mine other minerals, the  
2 lessee, before mining the minerals, shall so notify the board in  
3 writing, and the board and the lessee shall negotiate and fix  
4 the royalties for the minerals.

5 Any other law to the contrary notwithstanding, [~~thirty~~  
6 twenty-five per cent of all royalties received by the State from  
7 geothermal resources shall be paid to the county in which mining  
8 operations covered under [a] an existing state geothermal  
9 resource mining lease or new state geothermal resource mining  
10 lease made after July 1, 2012, are situated.

11 Any other law to the contrary notwithstanding, and  
12 contingent upon the receipt by the appropriate county in which  
13 mining operations are situated of twenty-five per cent of all  
14 royalties received by the State, fifteen per cent of all  
15 royalties received by the State from geothermal resources  
16 produced under a state geothermal resource mining lease made  
17 after July 1, 2012, shall be paid to the department of Hawaiian  
18 home lands and shall be deposited into the native Hawaiian  
19 rehabilitation fund."

20 SECTION 5. Section 182-18, Hawaii Revised Statutes, is  
21 amended by amending subsection (a) to read as follows:





1           "(a) The board shall fix the payment of royalties to the  
2 State for the utilization of geothermal resources at a rate  
3 ~~[which]~~ that will encourage the initial and continued production  
4 of ~~[such]~~ the resources~~[-]~~; provided that the rate fixed by the  
5 board shall be no less than twelve per cent of the gross amount  
6 or value of the geothermal resources produced under the lease.  
7 With respect to all geothermal mining leases previously issued  
8 or to be issued, where the board determines that it is necessary  
9 to encourage the initial or continued production of geothermal  
10 resources, the board ~~[shall have the authority to]~~ may waive  
11 royalty payments to the State for any fixed period of time up to  
12 but not exceeding eight years."

13           SECTION 6. Nothing in this Act shall diminish the office  
14 of Hawaiian affairs' pro rata portion of the public trust lands,  
15 pursuant to article XII, section 6, of the state constitution.

16           SECTION 7. Statutory material to be repealed is bracketed  
17 and stricken. New statutory material is underscored.

18           SECTION 8. This Act shall take effect on July 1, 2012.



**Report Title:**

DHHL; Native Hawaiian Rehabilitation Fund

**Description:**

Identifies geothermal royalties and revenue from public land dispositions to nongeothermal renewable energy producers as supplemental sources of revenue for the native Hawaiian rehabilitation fund. (SD2)

*The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.*

