

MAR 13 2013

SENATE RESOLUTION

REQUESTING THE CONVENING OF A WORKING GROUP TO DISCUSS AND
RECOMMEND LEGISLATION TO SUPPORT THE ESTABLISHMENT OF AN
ENTITY TO ENHANCE THE FINANCIAL RESOURCES OF NATIVE
HAWAIIANS.

1 WHEREAS, the Legislature finds that the State is currently
2 dealing with a financial crisis; and

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4 WHEREAS, as a result of the recent economic downturn, state
5 and county governments have had to reduce or eliminate various
6 public services; and

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8 WHEREAS, all eighteen of the state principal departments,
9 including the Department of Education and University of Hawaii,
10 are underfunded and understaffed; and

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12 WHEREAS, in the wake of this shortfall in revenue, the
13 State is also faced with growing debt and unfunded pension and
14 welfare obligations in the billions of dollars; and

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16 WHEREAS, adding to this already challenging situation is
17 the recent decision of the Hawaii Supreme Court, which held in
18 Nelson v. Hawaiian Homes Commission, 127 Haw. 185 (2012), that
19 the State must provide "sufficient funds" to cover the
20 administrative and operational expenses of the Department of
21 Hawaiian Home Lands, which obligation, currently valued at
22 \$15,000,000 per year, not only runs in perpetuity but also
23 requires a back payment; and

24
25 WHEREAS, the Department of Hawaiian Home Lands is also
26 facing a fiscal crisis, and the \$600,000,000 settlement awarded
27 to the Department of Hawaiian Home Lands in 1995 was largely
28 spent by prior administrations and will likely be completely
29 diminished in about two years; and

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31 WHEREAS, other states allow the format of Native
32 Corporations with authority to serve as vehicles for advancement
33 of the Native Peoples in their states; and



1 WHEREAS, in 1965 the State of Hawaii established the State
2 Foundation on Culture and the Arts, which has enhanced the
3 State's awareness, appreciation, and knowledge of numerous
4 projects or programs pertaining to the arts, music, dance,
5 cultural customs, and traditions for almost fifty years; and
6

7 WHEREAS, the success of the State Foundation on Culture and
8 the Arts makes it a potential model for an entity to enhance the
9 financial resources of Native Hawaiians; and
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11 WHEREAS, the Office of Hawaiian Affairs holds assets, both
12 financial and real estate, in trust for its beneficiaries; and
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14 WHEREAS, Act 195, Session Laws of Hawaii 2011, recognized
15 the Native Hawaiian people as the only indigenous, aboriginal,
16 maoli people of Hawaii and established a roll that would list
17 Native Hawaiians eligible to participate in the organization of
18 a Native Hawaiian governing entity; and
19

20 WHEREAS, this entity, once formed, may be the most
21 appropriate entity to receive and manage all Native Hawaiian
22 lands; and
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24 WHEREAS, there are unresolved issues needing study relating
25 to the appropriate constitutional and statutory missions, and
26 beneficiary and constituent groups, of the Department of
27 Hawaiian Home Lands, Department of Land and Natural Resources,
28 and Office of Hawaiian Affairs; now, therefore,
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30 BE IT RESOLVED by the Senate of the Twenty-seventh
31 Legislature of the State of Hawaii, Regular Session of 2013,
32 that the Department of Hawaiian Home Lands; Office of Hawaiian
33 Affairs; Department of Land and Natural Resources; Department of
34 Budget and Finance; Department of Business, Economic
35 Development, and Tourism; and Department of the Attorney General
36 are requested to convene a working group to discuss and propose
37 legislation which:
38

- 39 (1) Provides a vehicle that would ensure that "sufficient
40 funds" are provided by the State to the Department of
41 Hawaiian Home Lands;
42
- 43 (2) Generates much needed revenues for the general fund
44 and the Department of Hawaiian Home Lands;



1
2 (3) Considers the costs and benefits of authorizing
3 creation of native Hawaiian corporate entities to
4 serve as vehicles to enhance the financial resources
5 of native Hawaiians and the scope of powers and
6 functions for such corporate entities, including
7 whether the creation of a foundation or an endowment
8 is an appropriate vehicle;

9
10 (4) Creates a vehicle to obtain revenue that will not
11 require the State or the Department of Hawaiian Home
12 Lands to bear up-front costs, including the
13 appropriate use of public-private joint ventures; and
14

15 (5) Utilizes lands and assets that are not Hawaiian home
16 land trust lands to generate revenue; and
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18 BE IT FURTHER RESOLVED that the working group include the
19 following members; provided that the working group may call upon
20 advice or guidance from other persons in the community that have
21 experience in, or a demonstrated expertise in, the establishment
22 of corporate entities:

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24 (1) Chairperson of the Hawaiian Homes Commission, or the
25 Chairperson's designee;

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27 (2) Chairperson of the Board of Trustees of the Office of
28 Hawaiian Affairs, or the Chairperson's designee;

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30 (3) Chairperson of the Board of Land and Natural
31 Resources, or the Chairperson's designee;

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33 (4) Director of Finance, or the Director's designee;

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35 (5) Director of Business, Economic Development, and
36 Tourism, or the Director's designee; and

37
38 (6) Attorney General, or the Attorney General's designee;
39 and
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41 BE IT FURTHER RESOLVED that the working group is requested
42 to jointly submit a report detailing their findings and proposed
43 legislation to the Legislature no later than twenty days prior



1 to the convening of the Regular Session of 2014 and be dissolved
2 on June 30, 2014; and

3
4 BE IT FURTHER RESOLVED that certified copies of this
5 Resolution be transmitted to the Chairperson of the Hawaiian
6 Homes Commission; Chairperson of the Board of Trustees of the
7 Office of Hawaiian Affairs; Chairperson of the Board of Land and
8 Natural Resources; Director of Finance; Director of Business,
9 Economic Development, and Tourism; and the Attorney General.

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OFFERED BY: ~~MacFarlane~~

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