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## HOUSE CONCURRENT RESOLUTION

ESTABLISHING A TASK FORCE TO STUDY STRUCTURAL CHANGES AND  
PROCEDURES TO THE OFFICE OF THE LEGISLATIVE AUDITOR TO  
IMPROVE ACCOUNTABILITY AND INDEPENDENCE.

1           WHEREAS, the office of the auditor is established by  
2 Article VII, section 10, of the Hawaii State Constitution, and  
3 Chapter 23 of the Hawaii Revised Statutes; and  
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5           WHEREAS, the Article VII, section 10 of the Hawaii State  
6 Constitution calls for the auditor to be appointed by the  
7 legislature, and the budget of the office of the auditor is  
8 included within the legislative budget; and  
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10           WHEREAS, in 2002, the year immediately preceding the tenure  
11 of the current administration, the budget of the office of the  
12 auditor stood at slightly over two million dollars; and  
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14           WHEREAS, in 2003, the legislature overrode a gubernatorial  
15 veto and enacted Act 4, Special Session Laws of Hawaii 2003,  
16 which established the audit revolving fund; and  
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18           WHEREAS, Act 4 compels executive departments to deposit  
19 moneys received or generated by an executive department as a  
20 result of the cost of financial audits conducted by or  
21 contracted for by the auditor into the audit revolving fund; and  
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23           WHEREAS, deposits into the audit revolving fund have  
24 fluctuated in the years since its creation from \$3,013,125 in  
25 fiscal year 2004, \$1,500,000 in fiscal years 2005, and 2006,  
26 \$4,221,820 in fiscal year 2007, \$2,429,360 in fiscal year 2008,  
27 and \$2,550,828, in fiscal years 2009 and 2010; and  
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29           WHEREAS, over the same time periods, the budget of the  
30 office of the auditor, as included in the legislative budget,



1 has steadily increased to a high of \$2,910,685 in fiscal year  
2 2008; and

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4 WHEREAS, appropriations out of the audit revolving fund  
5 more than doubled the actual expenditures by the office of the  
6 auditor during the same time period, with the office of the  
7 auditor authorized to expend over \$9 million in fiscal year 2009  
8 compared to just over \$2 million in fiscal year 2002; and

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10 WHEREAS, prior to 2003, the auditor was universally hailed  
11 for executing her duties in a fair and impartial manner; and

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13 WHEREAS, in recent years, the audit process by the office  
14 of the auditor has taken a more biased and political flavor,  
15 including drafts of audits that present conclusions that  
16 overstep the scope of the office, such as in one highly  
17 publicized incident where the draft audit recommended the  
18 termination of a department director and drew legal conclusions  
19 of liability, even after the Attorney General testified in a  
20 Senate Investigative Committee that the department director was  
21 not criminally liable for purported violations of the law; and

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23 WHEREAS, the accused department director and the Governor  
24 criticized the draft as "political", "lacks understanding",  
25 "fails to accurately assess factual information", and  
26 "completely absent of objectivity."; and

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28 WHEREAS, the final version of this particular audit has yet  
29 to be released, indicating major revisions and giving credence  
30 to the criticisms of the accused department director and  
31 Governor; and

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33 WHEREAS, another example of this disturbing trend of  
34 impartiality is the very recently completed draft of an audit of  
35 the Department of Budget and Finance which was supposed to  
36 entail a financial examination of the department; and

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38 WHEREAS, the auditor chose to implicitly accuse the  
39 Department of Budget and Finance of violating state law by  
40 investing state funds in student loan auction rate securities, a  
41 short term investment that many jurisdictions invest general  
42 funds in; and

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1 WHEREAS, the investments have not lost a single dollar, and  
2 the Department of Budget and Finance sold at least \$10 million  
3 of this type of security for par, or face, value; and  
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5 WHEREAS, these investments also pay interest periodically;  
6 and  
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8 WHEREAS, the draft has been criticized by the Governor as  
9 "an unfounded, false, and defamatory attack on the integrity of  
10 the department and its employees", but even more disturbing, the  
11 draft also draws a legal conclusion about the state's purchase  
12 of auction-rate securities that the auditor is unqualified to  
13 make, is not based on evidence and is at odds with a written  
14 opinion by the state attorney general; and  
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16 WHEREAS, the only accountability measures currently in  
17 place for the office of the legislative auditor is the  
18 legislative budget process, for which the legislature has  
19 increased the budget over the years, and the appointment  
20 process, which is once every eight years; and  
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22 WHEREAS, other states strive for accountability and  
23 impartiality in their auditors through a number of means, such  
24 as creating an office that is not attached to either the  
25 executive or legislative branch, making the auditor an elected  
26 position, or having another entity provide a check against the  
27 auditor, such as a state inspector general; and  
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29 WHEREAS, recent events have broached the possibility that  
30 structural changes may be needed to increase the accountability  
31 and independence of the office of the auditor; now, therefore,  
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33 BE IT RESOLVED by the House of Representatives of the  
34 Twenty-fifth Legislature of the State of Hawaii, Regular Session  
35 of 2010, the Senate concurring, that there be a task force  
36 created to study the various options for increasing the  
37 accountability and independence of the office of the auditor,  
38 and the feasibility of the various options; and  
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40 BE IT FURTHER RESOLVED that the task force be composed of  
41 an equal number of individuals from the majority and minority  
42 caucuses of both the House and Senate, as selected by their  
43 respective leadership; and  
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1 BE IT FURTHER RESOLVED that the task force also include a  
2 representative from the executive branch, the office of the  
3 auditor, and the legislative reference bureau; and  
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5 BE IT FURTHER RESOLVED that the task force elect a chair  
6 from its membership, not to include the representative from the  
7 executive branch, the office of the auditor, or the legislative  
8 reference bureau; and  
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10 BE IT FURTHER RESOLVED that the task force submit its  
11 written findings and recommendations, including potential  
12 legislation, to the Legislature not later than twenty days prior  
13 to the convening of the Regular Session of 2011; and  
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15 BE IT FURTHER RESOLVED that certified copies of this  
16 Concurrent Resolution be transmitted to Governor, the Speaker of  
17 the House of Representatives, the Senate President, the Office  
18 of the Auditor, and the Legislative Reference Bureau.  
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OFFERED BY: \_\_\_\_\_



MAR 10 2010

