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# SENATE CONCURRENT RESOLUTION

ESTABLISHING A JOINT LEGISLATIVE INVESTIGATING COMMITTEE TO  
OVERSEE THE INVESTIGATION OF THE DEPARTMENT OF BUDGET AND  
FINANCE'S HANDLING OF THE STATE'S INVESTMENT IN STUDENT  
LOAN AUCTION RATE SECURITIES.

1           WHEREAS, the State of Hawaii is currently in the midst of  
2 an economic recession, whereby every dollar in the State's  
3 budget would help the State maintain essential services and  
4 reduce its budget deficit; and  
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6           WHEREAS, the State previously purchased \$1,100,000,000 in  
7 student loan auction rate securities (SLARS) from Salomon Smith  
8 Barney, representing nearly 25 percent of the State's total  
9 investment in securities; and  
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11           WHEREAS, due to the financial collapse of the securities  
12 market, the assets have been frozen and the State is unable to  
13 utilize the \$1,100,000,000 in SLARS; and  
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15           WHEREAS, six months ago, the Auditor required the State to  
16 revalue the SLARS at \$114,000,000 less than the amount that the  
17 State actually paid, and other subsequent revaluations of the  
18 SLARS have estimated the loss at \$254,000,000; and  
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20           WHEREAS, it has been asserted by the Auditor that a portion  
21 of the SLARS was purchased in violation of state laws that  
22 specify the maximum period of maturity and the minimum financial  
23 rating that state investment purchases must have; and  
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25           WHEREAS, a secondary market reportedly exists for the State  
26 to sell the SLARS at a discount; and



1 WHEREAS, the Auditor issued a report citing several  
2 inadequacies, failures in oversight, and legal violations in the  
3 purchase of SLARS by Department of Budget and Finance (B&F)  
4 officials; and  
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6 WHEREAS, there has been widespread disagreement between the  
7 Auditor, the Director of Finance, and the Administration  
8 regarding the legality and fiscal integrity of the SLARS  
9 investments; and  
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11 WHEREAS, a joint legislative investigating committee would  
12 help to provide answers to questions surrounding the SLARS  
13 investments and help to clear the record between the Auditor's  
14 assertions and B&F's legal obligations; and  
15

16 WHEREAS, section 21-3, Hawaii Revised Statutes (HRS),  
17 authorizes the establishment of a legislative investigating  
18 committee by resolution, and Rule 14(3) of the Rules of the  
19 Senate and Rule 14 of the Rules of the House of Representatives  
20 allow for the establishment of special committees; now,  
21 therefore,  
22

23 BE IT RESOLVED by the Senate of the Twenty-fifth  
24 Legislature of the State of Hawaii, Regular Session of 2010, the  
25 House of Representatives concurring, that:  
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- 27 (1) The Legislature hereby jointly establishes a joint  
28 legislative investigating committee (investigating  
29 committee) pursuant to chapter 21, HRS, to oversee the  
30 investigation of B&F's handling of the State's  
31 investment in student loan auction rate securities;  
32
- 33 (2) The purpose and the duties of the investigating  
34 committee and the subject matter and scope of its  
35 investigatory authority shall be to assist the  
36 independent attorney in charge of the investigation by  
37 holding meetings and hearings as requested, receiving  
38 all information from the investigation, and submitting  
39 a final report to the Legislature;  
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- 41 (3) The investigating committee shall have every power and  
42 function allowed to an investigating committee under  
43 the law, including without limitation the power to:



- 1 (A) Adopt rules for the conduct of its proceedings;  
2  
3 (B) Issue subpoenas requiring the attendance and  
4 testimony of witnesses and subpoenas duces tecum  
5 requiring the production of books, documents,  
6 records, papers, or other evidence in any matter  
7 pending before the investigating committee;  
8  
9 (C) Hold hearings appropriate for the performance of  
10 its duties, at such times and places as the  
11 committee determines;  
12  
13 (D) Administer oaths and affirmations to witnesses at  
14 hearings of the investigating committee;  
15  
16 (E) Report or certify instances of contempt as  
17 provided in section 21-14, HRS;  
18  
19 (F) Determine the means by which a record shall be  
20 made of its proceedings in which testimony or  
21 other evidence is demanded or adduced;  
22  
23 (G) Provide for the submission, by a witness's own  
24 counsel and counsel for another individual or  
25 entity about whom the witness has devoted  
26 substantial or important portions of the  
27 witness's testimony, of written questions to be  
28 asked of the witness by the chair; and  
29  
30 (H) Exercise all other powers specified under chapter  
31 21, HRS, with respect to an investigating  
32 committee;  
33  
34 (4) The investigating committee shall consist of six  
35 members, composed of one budget chair from the Senate,  
36 one budget chair from the House of Representatives,  
37 one majority member from the Senate who shall be  
38 appointed by the Senate President, one majority member  
39 from the House of Representatives who shall be  
40 appointed by the Speaker of the House of  
41 Representatives, one minority member from the Senate  
42 who shall be appointed by the Senate President, and  
43 one minority member from the House of Representatives



1 who shall be appointed by the Speaker of the House of  
2 Representatives; and

3  
4 (5) Prior to issuing any subpoena for the testimony of any  
5 witness, or to calling any witness, the investigating  
6 committee shall determine whether litigation regarding  
7 the State's SLARS has been undertaken by the State,  
8 and, if not, shall inquire in writing of the Attorney  
9 General whether such litigation is reasonably likely;  
10 and if such litigation has been undertaken or if the  
11 Attorney General indicates it is reasonably likely, no  
12 such subpoena shall issue and no witness examined  
13 prior to the investigating committee receiving the  
14 written view of the Attorney General as to whether  
15 examination of such witness could materially harm the  
16 State's interests in such litigation; and if the  
17 written view of the Attorney General is in the  
18 affirmative, no subpoena shall issue and no  
19 examination of such witness shall take place absent  
20 the affirmative vote of four members of the  
21 investigating committee to issue such subpoena and  
22 conduct such examination;

23  
24 and

25  
26 BE IT FURTHER RESOLVED that the Senate President and the  
27 Speaker of the House of Representatives, from time to time, may  
28 refer to the investigating committee specific matters that are  
29 within the scope of the investigating committee's jurisdiction,  
30 and that the investigating committee shall work in cooperation  
31 with the President and the Speaker for the purposes stated in  
32 this Concurrent Resolution; and

33  
34 BE IT FURTHER RESOLVED that the investigating committee  
35 shall submit its findings and recommendations to the Legislature  
36 no later than 20 days prior to the convening of the Regular  
37 Session of 2011 and shall dissolve upon submission of its  
38 report; and

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40 BE IT FURTHER RESOLVED that certified copies of this  
41 Concurrent Resolution be transmitted to the Governor, President  
42 of the Senate, Speaker of the House of Representatives, Director  
43 of Finance, Attorney General, and the Auditor.

