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# HOUSE CONCURRENT RESOLUTION

REQUESTING AN AUDIT OF THE STATE'S COMPLIANCE WITH SECTION 5 OF  
ACT 178, SESSION LAWS OF HAWAII 2006.

1           WHEREAS, the State of Hawaii has fiduciary responsibilities  
2 as the trustee of the public land trust established by section  
3 5(f) of the Admission Act; and  
4

5           WHEREAS, the Hawaii Supreme Court has repeatedly held that  
6 the Legislature has a constitutional obligation to clarify the  
7 amount of revenues derived from the public land trust that  
8 should be transferred to the Office of Hawaiian Affairs for the  
9 benefit of Native Hawaiians under Article XII, sections 4 and 6  
10 of the Hawaii State Constitution; and  
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12           WHEREAS, one of the purposes of Act 178, Session Laws of  
13 Hawaii 2006 (Act 178), was to identify revenue-generating public  
14 trust lands and the amounts derived from those lands by  
15 requiring that the Department of Land and Natural Resources  
16 provide an annual accounting to the Legislature; and  
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18           WHEREAS, section 5 of Act 178 requires that no later than  
19 January 1 of each year, the Department of Land and Natural  
20 Resources, with the cooperation of the Department of Budget and  
21 Finance and any other state department or agency that uses or  
22 manages public lands, provide an accounting of all receipts from  
23 lands described in section 5(f) of the Admission Act for the  
24 prior fiscal year; and  
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26           WHEREAS, section 5 of Act 178 also requires that with  
27 respect to each receipt, the Department of Land and Natural  
28 Resources must identify:



- 1           (1) The total gross amount;
- 2
- 3           (2) The amount transferred to the Office of Hawaiian
- 4           Affairs;
- 5
- 6           (3) The amount retained by the State;
- 7
- 8           (4) The account or fund in which the amount specified in
- 9           paragraph (3) was transferred or deposited;
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- 11          (5) The parcel of land subject to section (5)f of the
- 12          Admission Act that generated the receipt, whether by
- 13          tax map key number, Department of Land and Natural
- 14          Resources inventory number, or other recognizable
- 15          description; and
- 16
- 17          (6) The state department or agency that received the total
- 18          gross amount identified in paragraph (1);

19  
20 and

21  
22           WHEREAS, in addition, section 5 of Act 178 requires that  
23 the accounting also indicate whether any parcel of land  
24 described in section 5(f) of the Admission Act was sold or  
25 exchanged in the prior fiscal year and, if so, the amount of  
26 consideration that the State received for the respective  
27 parcels; and

28  
29           WHEREAS, section 5 of Act 178 also requires that the  
30 Department of Land and Natural Resources consult the Office of  
31 Hawaiian Affairs in determining the method in which the  
32 accounting must be conducted; and

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34           WHEREAS, full compliance with Act 178 is critical to  
35 fulfilling the State's trust obligation regarding the lands in  
36 the public land trust and the Office of Hawaiian Affairs; now,  
37 therefore,



# H.C.R. NO. 296


1 BE IT RESOLVED by the House of Representatives of the  
 2 Twenty-sixth Legislature of the State of Hawaii, Regular Session  
 3 of 2011, the Senate concurring, that the State Auditor is  
 4 requested to conduct an audit of the State's compliance with  
 5 section 5 of Act 178; and

6  
 7 BE IT FURTHER RESOLVED that all government agencies are  
 8 requested to provide their full cooperation and all relevant  
 9 data and other information to the State Auditor during the  
 10 planning and implementation of the audit; and

11  
 12 BE IT FURTHER RESOLVED the State Auditor is requested to  
 13 submit her findings and recommendations, including any proposed  
 14 legislation, to the Legislature no later than 20 days prior to  
 15 the convening of the Regular Session of 2012; and

16  
 17 BE IT FURTHER RESOLVED that certified copies of this  
 18 Concurrent Resolution be transmitted to the Governor,  
 19 Chairperson of the Board of Land and Natural Resources, Director  
 20 of Finance, State Auditor, and Chairperson of the Board of  
 21 Trustees of the Office of Hawaiian Affairs.

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 23  
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OFFERED BY:  \_\_\_\_\_  
 MAR 16 2011