
HOUSE CONCURRENT RESOLUTION

REQUESTING THE STATE'S FULL 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
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5 WHEREAS, the Hawaii Supreme Court has repeatedly held that
6 the Legislature has a constitutional obligation to clarify the
7 pro rata portion of revenues derived from the public land trust
8 to which the Office of Hawaiian Affairs is entitled 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, is to identify revenue-generating public trust
14 lands and the amounts derived from those lands by requiring that
15 the Department of Land and Natural Resources provide an annual
16 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:
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- 30 (1) The total gross amount;



- 1 (2) The amount transferred to the Office of Hawaiian
2 Affairs;
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4 (3) The amount retained by the State;
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6 (4) The account or fund in which the amount specified in
7 paragraph (3) was transferred or deposited;
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9 (5) The parcel of land subject to section 5(f) of the
10 Admission Act that generated the receipt, whether by
11 tax map key number, Department of Land and Natural
12 Resources inventory number, or other recognizable
13 description; and
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15 (6) The state department or agency that received the total
16 gross amount identified in paragraph (1); and
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18 WHEREAS, section 5 of Act 178 also requires that the
19 Department of Land and Natural Resources consult the Office of
20 Hawaiian Affairs in determining the method in which the
21 accounting must be conducted; and
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23 WHEREAS, while section 5 of Act 178 requires an accounting
24 of all revenues from lands described in section 5(f) of the
25 Admission Act, state departments currently provide to the
26 Department of Land and Natural Resources an accounting of only
27 the revenues they determine should be transferred to the Office
28 of Hawaiian Affairs, resulting in a gap in the accounting; and
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30 WHEREAS, full compliance with Act 178 is critical to
31 fulfilling the State's trust obligation regarding the lands in
32 the public land trust and the Office of Hawaiian Affairs; and
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34 WHEREAS, the Office of Hawaiian Affairs continues to work
35 with the Department of Land and Natural Resources to help ensure
36 the State's compliance with Act 178; now, therefore,
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38 BE IT RESOLVED by the House of Representatives of the
39 Twenty-sixth Legislature of the State of Hawaii, Regular Session
40 of 2012, the Senate concurring, that the Governor is requested
41 to direct all state departments or agencies to comply fully with
42 section 5 of Act 178, Session Laws of Hawaii 2006, and provide
43 to the Department of Land Natural Resources an accounting of all



1 receipts from lands described in section 5(f) of the Admission
2 Act for each fiscal year since the enactment of Act 178; and

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4 BE IT FURTHER RESOLVED that certified copies of this
5 Concurrent Resolution be transmitted to the Governor, the
6 Chairperson of the Board of Land and Natural Resources, the
7 Director of Finance, and the Chairperson of the Board of
8 Trustees of the Office of Hawaiian Affairs.

