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# SENATE CONCURRENT RESOLUTION

URGING THE KAHO'OLAWE ISLAND RESERVE COMMISSION TO REQUIRE EACH STEWARDSHIP PROGRAM CONDUCTING ACTIVITIES ON THE KAHO'OLAWE ISLAND RESERVE TO OBTAIN LIABILITY AND PROPERTY DAMAGE INSURANCE AND LIST THE STATE AS AN ADDITIONAL INSURED.

1           WHEREAS, in Act 340, Session Laws of Hawaii 1993, the  
2 Legislature placed the Island of Kaho'olawe, a place of  
3 extraordinary cultural significance, under the control of the  
4 Kaho'olawe Island Reserve Commission, with the condition that the  
5 State would eventually transfer management and control of the  
6 Island of Kaho'olawe, along with its resources and waters, to a  
7 future sovereign native Hawaiian entity upon its recognition by  
8 the United States and the State; and  
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10           WHEREAS, the Kaho'olawe Island Reserve Commission  
11 established policies and controls for uses of the Kaho'olawe  
12 Island Reserve; coordinates the environmental restoration of the  
13 Kaho'olawe Island Reserve; and provides for the perpetuation of  
14 native Hawaiian customs, beliefs, and practices; and  
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16           WHEREAS, on March 21, 2006, pursuant to section 6K-6(5),  
17 Hawaii Revised Statutes, the Kaho'olawe Island Reserve Commission  
18 entered into a three-year stewardship agreement, Palapala 'Aelike  
19 Kahu'aina, with the Protect Kaho'olawe 'Ohana through its  
20 nonprofit corporation and fiscal agent Kohe Malamalama O  
21 Kanaloa, also known as the Protect Kaho'olawe Fund, to allow the  
22 Protect Kaho'olawe 'Ohana and its participants to access the  
23 Kaho'olawe Island Reserve to provide mutual support for  
24 activities approved and sponsored by the Kaho'olawe Island  
25 Reserve Commission; and  
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27           WHEREAS, on April 9, 2009, the Kaho'olawe Island Reserve  
28 Commission entered into a five-year stewardship agreement,  
29 Palapala 'Aelike Kahu'aina, with the Protect Kaho'olawe 'Ohana  
30 through Kohe Malamalama O Kanaloa to allow the Protect Kaho'olawe



1 'Ohana to access the Kaho'olawe Island Reserve to provide mutual  
2 support for activities approved and sponsored by the Kaho'olawe  
3 Island Reserve Commission; and  
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5 WHEREAS, the Protect Kaho'olawe 'Ohana has facilitated the  
6 access by more than fifteen thousand people to the Kaho'olawe  
7 Island Reserve; and  
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9 WHEREAS, on August 6, 2009, a Protect Kaho'olawe 'Ohana  
10 access participant was seriously injured by the propeller of a  
11 boat that had been contracted by the Protect Kaho'olawe 'Ohana;  
12 and  
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14 WHEREAS, as a result of the serious injuries sustained, the  
15 Protect Kaho'olawe 'Ohana access participant filed two lawsuits  
16 against the State requesting payment for general damages,  
17 special damages, and attorney's fees and costs; and  
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19 WHEREAS, pursuant to section 6K-6(1), Hawaii Revised  
20 Statutes, the Kaho'olawe Island Reserve Commission "[s]hall  
21 establish criteria, policies, and controls for permissible uses  
22 within the island reserve", and thus has a responsibility to  
23 protect the State from liability; and  
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25 WHEREAS, to prevent future liability, it is necessary to  
26 ensure that all stewardship programs conducting activities on  
27 the Kaho'olawe Island Reserve include sufficient liability  
28 protection for the State; now, therefore,  
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30 BE IT RESOLVED by the Senate of the Twenty-sixth  
31 Legislature of the State of Hawaii, Regular Session of 2012, the  
32 House of Representatives concurring, that the Kaho'olawe Island  
33 Reserve Commission is urged to require each stewardship program  
34 conducting activities on the Kaho'olawe Island Reserve to obtain  
35 liability and property damage insurance in an amount acceptable  
36 to the State and list the State as an additional insured at the  
37 stewardship program's own cost and expense; and  
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39 BE IT FURTHER RESOLVED that certified copies of this  
40 Concurrent Resolution be transmitted to the Governor; Mayor of  
41 the County of Maui; Chairperson of the Board of Land and Natural  
42 Resources; Chairperson of the Board of Trustees of the Office of  
43 Hawaiian Affairs; Chairperson of the Senate Committee on



- 1 Hawaiian Affairs; Chairperson of the House Committee on Hawaiian
- 2 Affairs; Chairperson of the Kaho'olawe Island Reserve Commission;
- 3 Kohe Malamalama O Kanaloa; and Protect Kaho'olawe 'Ohana.

