

JAN 20 2012

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# SENATE 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;  
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- 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
- 14
- 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, the Hawaii Public Housing Authority, the Hawaii  
24          Health Systems Corporation, and the Hawaii Housing Finance and  
25          Development Corporation have failed to provide an accounting of  
26          receipts in the previous two years or more; and

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28           WHEREAS, while section 5 of Act 178 requires an accounting  
29          of all revenues from lands described in section 5(f) of the  
30          Admission Act, state departments currently provide to the  
31          Department of Land and Natural Resources an accounting of only  
32          the revenues they determine should be transferred to the Office  
33          of Hawaiian Affairs, resulting in a gap in the accounting; and

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

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39           WHEREAS, the Office of Hawaiian Affairs continues to work  
40          with the Department of Land and Natural Resources to help ensure  
41          the State's compliance with Act 178; now, therefore,

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43           BE IT RESOLVED by the Senate of the Twenty-sixth  
44          Legislature of the State of Hawaii, Regular Session of 2012, the



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1 House of Representatives concurring, that the Governor is  
 2 requested to direct the Hawaii Public Housing Authority, the  
 3 Hawaii Health Systems Corporation, and the Hawaii Housing  
 4 Finance and Development Corporation to provide an accounting of  
 5 all receipts from lands described in section 5(f) of the  
 6 Admission Act as required by section 5 of Act 178; and

7  
 8 BE IT FURTHER RESOLVED that the Governor is requested to  
 9 direct all state departments to comply fully with section 5 of  
 10 Act 178 and provide to the Department of Land and Natural  
 11 Resources an accounting of all receipts from lands described in  
 12 section 5(f) of the Admission Act for each fiscal year since the  
 13 enactment of Act 178; and

14  
 15 BE IT FURTHER RESOLVED that certified copies of this  
 16 Concurrent Resolution be transmitted to the Governor, the  
 17 Chairperson of the Board of Land and Natural Resources, the  
 18 Director of Finance, and the Chairperson of the Board of  
 19 Trustees of the Office of Hawaiian Affairs.

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OFFERED BY: \_\_\_\_\_



By Request

