
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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32 (2) The amount transferred to the Office of Hawaiian
33 Affairs;



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- 2 (3) The amount retained by the State;
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- 4 (4) The account or fund in which the amount specified in
- 5 paragraph (3) was transferred or deposited;
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- 7 (5) The parcel of land subject to section 5(f) of the
- 8 Admission Act that generated the receipt, whether by
- 9 tax map key number, Department of Land and Natural
- 10 Resources inventory number, or other recognizable
- 11 description; and
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- 13 (6) The state department or agency that received the total
- 14 gross amount identified in paragraph (1); and
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16 WHEREAS, section 5 of Act 178 also requires that the
 17 Department of Land and Natural Resources consult the Office of
 18 Hawaiian Affairs in determining the method in which the
 19 accounting must be conducted; and

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21 WHEREAS, the Hawaii Public Housing Authority, the Hawaii
 22 Health Systems Corporation, and the Hawaii Housing Finance and
 23 Development Corporation have failed to provide an accounting of
 24 receipts in the previous two years or more; and

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

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

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

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41 BE IT RESOLVED by the Senate of the Twenty-sixth
 42 Legislature of the State of Hawaii, Regular Session of 2012, the
 43 House of Representatives concurring, that the Governor is
 44 requested to direct the Hawaii Public Housing Authority, the



1 Hawaii Health Systems Corporation, and the Hawaii Housing
2 Finance and Development Corporation to provide an accounting of
3 all receipts from lands described in section 5(f) of the
4 Admission Act as required by section 5 of Act 178; and
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6 BE IT FURTHER RESOLVED that the Governor is requested to
7 direct all state departments to comply fully with section 5 of
8 Act 178 and provide to the Department of Land and Natural
9 Resources an accounting of all receipts from lands described in
10 section 5(f) of the Admission Act for each fiscal year since the
11 enactment of Act 178; and
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13 BE IT FURTHER RESOLVED that certified copies of this
14 Concurrent Resolution be transmitted to the Governor, the
15 Chairperson of the Board of Land and Natural Resources, the
16 Director of Finance, the Chairperson of the Board of Trustees of
17 the Office of Hawaiian Affairs, the Executive Director of the
18 Hawaii Public Housing Authority, the President of the Hawaii
19 Health Systems Corporation, and the Executive Director of the
20 Hawaii Housing Finance and Development Corporation.

