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# SENATE CONCURRENT RESOLUTION

URGING THE DEPARTMENT OF LAND AND NATURAL RESOURCES TO TRANSFER  
A PORTION OF THE REVENUE DERIVED FROM THE CONVEYANCE OR  
TRANSFER OF ANY LAND OF THE PUBLIC LAND TRUST TO THE OFFICE  
OF HAWAIIAN AFFAIRS.

1           WHEREAS, article XII, section 4, of the Hawaii State  
2 Constitution provides that "[t]he lands granted to the State of  
3 Hawaii by Section 5(b) of the Admission Act and pursuant to  
4 Article XVI, Section 7, of the State Constitution, excluding  
5 therefrom lands defined as "available lands" by Section 203 of  
6 the Hawaiian Homes Commission Act, 1920, as amended, shall be  
7 held by the State as a public trust for native Hawaiians and the  
8 general public"; and

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10           WHEREAS, the Office of Hawaiian Affairs receives a portion  
11 of the revenue derived from the conveyance of certain land of  
12 the public land trust by the Department of Land and Natural  
13 Resources to the Hawaii Housing Finance and Development  
14 Corporation for the development of housing projects; and

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16           WHEREAS, the formula to determine the revenue received by  
17 the Office of Hawaiian Affairs from the Department of Land and  
18 Natural Resources for the development of housing projects should  
19 serve as a model for a formula to determine the revenue received  
20 by the Office of Hawaiian Affairs from the Department of Land  
21 and Natural Resources for conveyances of any lands of the public  
22 land trust, so long as fair market value is narrowly defined to  
23 afford certainty to the Office of Hawaiian Affairs and  
24 Department of Land and Natural Resources; and

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26           WHEREAS, the amount due to the Office of Hawaiian Affairs  
27 from the conveyance of lands for the development of housing  
28 projects is determined according to the ambiguous standard of  
29 "the most profitable, probable, and legal use to which the land  
30 can be put"; and

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1           WHEREAS, the formula to determine the revenue received by  
 2 the Office of Hawaiian Affairs as its portion of the revenue  
 3 derived from the conveyance of certain land of the public land  
 4 trust only applies to the developments known as the Villages of  
 5 Leali'i, Maui, and Villages of La'i'opua, Hawaii; and

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 7           WHEREAS, Senate Bill No. 2327, Regular Session of 2012,  
 8 proposed to define the fair market value of the land conveyed by  
 9 the Department of Land and Natural Resources to the Hawaii  
 10 Housing Finance and Development Corporation as "the amount of  
 11 money that a purchaser willing but not obliged to buy the land  
 12 would pay to an owner willing but not obliged to sell it, taking  
 13 into consideration the use of the land at the time of  
 14 conveyance"; now, therefore,

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 16           BE IT RESOLVED by the Senate of the Twenty-sixth  
 17 Legislature of the State of Hawaii, Regular Session of 2012, the  
 18 House of Representatives concurring, that the Department of Land  
 19 and Natural Resources is urged to transfer a portion of the  
 20 revenue derived from the conveyance or transfer of any land of  
 21 the public land trust to the Office of Hawaiian Affairs; and

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 23           BE IT FURTHER RESOLVED that the amount transferred by the  
 24 Department of Land and Natural Resources to the Office of  
 25 Hawaiian Affairs for each conveyance or transfer of any lands of  
 26 the public land trust be determined by multiplying the fair  
 27 market value of the land by twenty percent; provided that the  
 28 fair market value means the amount of money that a purchaser  
 29 willing but not obliged to buy the land would pay to an owner  
 30 willing but not obliged to sell it, taking into consideration  
 31 the use of the land at the time of conveyance; and

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 33           BE IT FURTHER RESOLVED that the Attorney General is  
 34 requested to provide input and assist the Department of Land and  
 35 Natural Resources and Office of Hawaiian Affairs in determining  
 36 the fair market value of the ceded lands at the time of  
 37 conveyance; and

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 39           BE IT FURTHER RESOLVED that certified copies of this  
 40 Concurrent Resolution be transmitted to the Chairperson of the  
 41 Board of Trustees of the Office of Hawaiian Affairs, Chairperson  
 42 of the Board of Land and Natural Resources, Executive Director



1 of the Hawaii Housing Finance and Development Corporation, and  
2 Attorney General.

