

MAR 13 2013

SENATE CONCURRENT RESOLUTION

URGING THE OFFICE OF HAWAIIAN AFFAIRS TO CONDUCT A FINANCIAL
REVIEW OF INFORMATION SUBJECT TO THE REPORTING REQUIREMENTS
OF 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 (Act 178), is to identify revenue-generating public
14 trust lands and the amounts derived from those lands by
15 requiring that the Department of Land and Natural Resources
16 provide an annual 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, shall provide an accounting of all
23 receipts from lands described in section 5(f) of the Admission
24 Act for the 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;
- 8
- 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 accounting indicate whether any parcel of land described in

20 section 5(f) of the Admission Act was sold or exchanged in the

21 prior fiscal year and, if so, the amount of consideration that

22 the State received for the respective parcels; and

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24 WHEREAS, section 5 of Act 178 also requires that the

25 Department of Land and Natural Resources consult the Office of

26 Hawaiian Affairs in determining the method in which the

27 accounting must be conducted; and

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29 WHEREAS, pursuant to section 2 of Act 178, the State has

30 transferred \$15,100,000 in public land trust revenues annually

31 to the Office of Hawaiian Affairs; and

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33 WHEREAS, initial research indicates that information may be

34 missing from the reports that state departments currently

35 provide to the Department of Land and Natural Resources pursuant

36 to section 5 of Act 178, which requires an accounting of all

37 revenues from lands described in section 5(f) of the Admission

38 Act; and

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40 WHEREAS, the Department of Land and Natural Resources does

41 not have the statutory authority to verify the completeness or

42 accuracy of the accountings provided by state departments or

43 agencies; and

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1 WHEREAS, full compliance with section 5 of Act 178,
2 including complete and accurate accounting, is critical to
3 fulfilling the State's trust obligation regarding the public
4 land trust and the Office of Hawaiian Affairs; and
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6 WHEREAS, the Office of Hawaiian Affairs continues to work
7 with the Department of Land and Natural Resources to help ensure
8 the State's compliance with Act 178; now, therefore;
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10 BE IT RESOLVED by the Senate of the Twenty-seventh
11 Legislature of the State of Hawaii, Regular Session of 2013, the
12 House of Representatives concurring, that the Office of Hawaiian
13 Affairs is requested to conduct a financial review of
14 information subject to the reporting requirements of section 5
15 of Act 178, Session Laws of Hawaii 2006; and
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17 BE IT FURTHER RESOLVED that the Governor is requested to
18 direct each state department or agency that uses or manages
19 public lands to provide its full cooperation and all relevant
20 data and other information to the Office of Hawaiian Affairs
21 during the planning and implementation of the financial review;
22 and
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24 BE IT FURTHER RESOLVED that the Governor is requested to
25 further direct each department or agency to respond promptly,
26 and in no event later than thirty days, to any financial review-
27 related request made by the Office of Hawaiian Affairs,
28 including requests for records and other information in the
29 course of the financial review; and
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31 BE IT FURTHER RESOLVED that the Office of Hawaiian Affairs
32 is requested to submit the findings and recommendations of the
33 financial review that it conducts pursuant to this measure,
34 including any proposed legislation, to the Legislature no later
35 than twenty days prior to the convening of the Regular Session
36 of 2015; and
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38 BE IT FURTHER RESOLVED that certified copies of this
39 Concurrent Resolution be transmitted to the Governor,
40 Chairperson of the Board of Land and Natural Resources, Director
41



S.C.R. NO. 145

1 of Finance, and Chairperson of the Board of Trustees of the
2 Office of Hawaiian Affairs.
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OFFERED BY: _____

A handwritten signature in black ink, consisting of a large, stylized initial 'R' followed by a horizontal line extending to the right.