

MAR 13 2013

SENATE 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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32 (2) The amount transferred to the Office of Hawaiian
33 Affairs;
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35 (3) The amount retained by the State;



- 1
- 2 (4) The account or fund in which the amount specified in
- 3 paragraph (3) was transferred or deposited;
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- 5 (5) The parcel of land subject to section 5(f) of the
- 6 Admission Act that generated the receipt, whether by
- 7 tax map key number, Department of Land and Natural
- 8 Resources inventory number, or other recognizable
- 9 description; and
- 10
- 11 (6) The state department or agency that received the total
- 12 gross amount identified in paragraph (1); and
- 13

14 WHEREAS, section 5 of Act 178 also requires that the
15 accounting indicate whether any parcel of land described in
16 section 5(f) of the Admission Act was sold or exchanged in the
17 prior fiscal year and, if so, the amount of consideration that
18 the State received for the respective parcels; and

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20 WHEREAS, section 5 of Act 178 also requires that the
21 Department of Land and Natural Resources consult the Office of
22 Hawaiian Affairs in determining the method in which the
23 accounting must be conducted; and

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25 WHEREAS, pursuant to section 2 of Act 178, the State has
26 transferred \$15,100,000 in public land trust revenues annually
27 to the Office of Hawaiian Affairs; and

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29 WHEREAS, initial research indicates that information may be
30 missing from the reports that state departments currently
31 provide to the Department of Land and Natural Resources pursuant
32 to section 5 of Act 178, which requires an accounting of all
33 revenues from lands described in section 5(f) of the Admission
34 Act; and

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36 WHEREAS, the Department of Land and Natural Resources does
37 not have the statutory authority to verify the completeness or
38 accuracy of the accountings provided by state departments or
39 agencies; and

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41 WHEREAS, full compliance with section 5 of Act 178,
42 including complete and accurate accounting, is critical to
43 fulfilling the State's trust obligation regarding the public
44 land trust and the Office of Hawaiian Affairs; and



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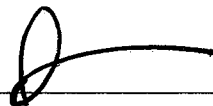
6 BE IT RESOLVED by the Senate of the Twenty-seventh
 7 Legislature of the State of Hawaii, Regular Session of 2013,
 8 that the Office of Hawaiian Affairs is requested to conduct a
 9 financial review of information subject to the reporting
 10 requirements of section 5 of Act 178, Session Laws of Hawaii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

OFFERED BY:  _____

