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# A BILL FOR AN ACT

RELATING TO THE LAND CONSERVATION FUND.

**BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:**

1           SECTION 1. (a) During the regular session of 2017, the  
2 legislature enacted Act 209, which required the auditor to  
3 conduct a performance audit of the department of land and  
4 natural resources' land conservation fund and provide  
5 recommendations as appropriate. The audit required by Act 209,  
6 Session Laws of Hawaii 2017, was submitted to the legislature in  
7 January 2019.

8           The audit found that the department of land and natural  
9 resources has struggled to properly manage the land conservation  
10 fund, hampering the program's effectiveness. Significantly, the  
11 department of land and natural resources has not established a  
12 resource land acquisition plan, which is required by law  
13 pursuant to section 173A-3, Hawaii Revised Statutes. The  
14 auditor noted that without this plan in place, the legacy land  
15 conservation program and the department of land and natural  
16 resources "lack an overall direction and purpose."



1           The auditor also found a number of more specific concerns  
2 with program implementation and financial management. Overall,  
3 the department of land and natural resources failed to exercise  
4 proper financial management over the land conservation fund,  
5 resulting in shortfalls, misspending, and a lack of transparency  
6 and accountability. For example:

- 7           (1) Program staff missed fiscal deadlines to create and  
8           execute contracts for grant awards, triggering a  
9           domino effect of borrowing anticipated future funds  
10           that had not yet been appropriated by the legislature.  
11           In practice, this reduced the amount of funding  
12           available for future projects;
- 13           (2) Program staff failed to track balances in the trust  
14           account used to hold legacy land conservation program  
15           funds awarded to state agencies, resulting in a  
16           complete lack of oversight and accountability;
- 17           (3) Department staff mistakenly paid nearly \$685,000 for  
18           state central service fees during fiscal years 2016  
19           and 2017, even though the land conservation fund had  
20           been statutorily exempt from paying the fees since  
21           2015;



1 (4) The department of land and natural resources used the  
2 land conservation fund's limited administrative budget  
3 to support the salary of an employee unrelated to the  
4 legacy land conservation fund program; and

5 (5) The division of forestry and wildlife of the  
6 department of land and natural resources has at times  
7 sought and obtained funding from the land conservation  
8 fund for its own projects outside of the legacy land  
9 conservation program's grant award process, reducing  
10 transparency and accountability.

11 (b) The legislature agrees with the auditor that the  
12 department of land and natural resources must follow its  
13 obligations under the law and implement the policies and  
14 procedures required for the department to exercise proper  
15 financial management over the land conservation fund.

16 Accordingly, the purpose of this Act is to require the  
17 department of land and natural resources to implement certain  
18 recommendations made by the auditor.

19 Specifically, this Act:

20 (1) Requires the department of land and natural resources  
21 to:



- 1 (A) Establish an initial resource land acquisition  
2 plan no later than January 1, 2020;
- 3 (B) Develop and implement written policies and  
4 procedures, including internal controls, to  
5 govern the grant award and blanket encumbrance  
6 processes;
- 7 (C) Develop clear and well-defined policies and  
8 procedures between the legacy land conservation  
9 program and the division of forestry and wildlife  
10 regarding the distribution of land conservation  
11 fund moneys;
- 12 (D) Maintain a record of the transfer of funds to and  
13 from any department of land and natural resources  
14 trust account and report these transactions to  
15 the governor and the legislature in the program's  
16 annual report;
- 17 (E) Maintain a centralized file system and establish  
18 a records retention policy for all awarded  
19 projects, including pending, completed, and  
20 discontinued projects; and



1 (F) Report to the legislature and the auditor on its  
 2 progress in meeting its obligations under this  
 3 Act prior to the convening of the legislature's  
 4 regular session of 2020; and

5 (2) Requires the auditor to:

6 (A) Monitor the progress of the department of land  
 7 and natural resources in implementing this Act;  
 8 and

9 (B) Commence a full financial and management audit of  
 10 the department of land and natural resources if  
 11 the auditor finds the department is not in  
 12 compliance with this Act.

13 SECTION 2. Section 173A-3, Hawaii Revised Statutes, is  
 14 amended to read as follows:

15 "§173A-3 Resource land acquisition plan. In consultation  
 16 with the senate president and speaker of the house of  
 17 representatives, the department shall prepare and, from time to  
 18 time, revise a plan for the acquisition of land having value as  
 19 a resource to the State[-]; provided that an initial plan shall  
 20 be completed no later than January 1, 2020. This plan shall  
 21 guide the board in acquiring [~~such~~] applicable land in the



1 exercise of its powers under this chapter. In preparing this  
2 plan, the department may institute studies relating to the need  
3 for [~~such~~] the land and shall consider any plan relating to the  
4 acquisition of [~~such~~] applicable land that has been prepared by  
5 any state or county agency."

6 SECTION 3. Section 173A-5, Hawaii Revised Statutes, is  
7 amended by amending subsection (1) to read as follows:

8 "(1) The board shall:

9 (1) Track amounts disbursed from the fund;

10 (2) Prepare and submit an annual report to the governor  
11 and the legislature at least twenty days prior to the  
12 convening of each regular session. The annual report  
13 shall include:

14 (A) A summary of all interests or rights in land  
15 acquired during the preceding fiscal year;

16 (B) A summary of what value each newly acquired land  
17 has as a resource to the State;

18 (C) Proposals for future land acquisitions, including  
19 a summary of the resource value that the land may  
20 possess;



1 (D) A financial report for the preceding fiscal year;  
2 [and]

3 (E) A record of the balance of and all transfers of  
4 funds to or from any department of land and  
5 natural resources trust account established to  
6 hold awards granted to state agencies. The  
7 report shall include a list of all projects for  
8 which a grant was awarded and the status of each  
9 project; and

10 [~~E~~] (F) Objectives and budget projections for the  
11 following fiscal year; and

12 (3) Make copies of the annual report available to the  
13 public."

14 SECTION 4. No later than January 1, 2020, the department  
15 of land and natural resources shall:

16 (1) Develop and implement written policies and procedures,  
17 including internal controls, governing the grant award  
18 and blanket encumbrance processes to ensure that  
19 project contracts are executed on time and blanket  
20 encumbrance funds do not lapse;



- 1 (2) Develop clear and well-defined policies and procedures  
2 between the legacy land conservation program and the  
3 division of forestry and wildlife regarding  
4 distribution of moneys from the land conservation  
5 fund; provided that the procedures shall require the  
6 division of forestry and wildlife to follow the grant  
7 application process described in section 173A-5,  
8 Hawaii Revised Statutes, in order to receive funding  
9 from the land conservation fund; and
- 10 (3) Develop a centralized file system and establish a  
11 records retention policy for all awarded projects,  
12 including pending, completed, and discontinued  
13 projects.

14 SECTION 5. The department of land and natural resources  
15 shall submit a report of its progress in meeting its obligations  
16 under this Act to the auditor and the legislature no later than  
17 twenty days prior to the convening of the regular session of  
18 2020.

19 SECTION 6. The auditor shall monitor the department of  
20 land and natural resources' progress in meeting its obligations  
21 under this Act. If, following the submittal of the report





1 required by section 5 of this Act, the auditor determines that  
2 the department of land and natural resources is not in  
3 compliance with this Act, the auditor shall conduct a full  
4 financial and management audit of the department of land and  
5 natural resources. If an audit is required, the auditor shall  
6 submit a report on the audit's findings and recommendations,  
7 including proposed legislation, to the legislature no later than  
8 twenty days prior to the convening of the regular session of  
9 2021.

10 SECTION 7. Statutory material to be repealed is bracketed  
11 and stricken. New statutory material is underscored.

12 SECTION 8. This Act shall take effect on July 1, 2050.



**Report Title:**

DLNR; Land Conservation Fund; Auditor's Recommendations; Report

**Description:**

Requires the DLNR to comply with recommendations contained in Auditor's Report No. 19-01 related to management of the Land Conservation Fund including by completing a Land Resource Acquisition Plan by 1/1/2020 and implementing policies, procedures, and internal controls related to the use of the Fund and grant awards. Requires the Auditor to track compliance and commence a full financial and management audit of the Department in the case of noncompliance. (HB589 HD1)

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