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# SENATE CONCURRENT RESOLUTION

REQUESTING THE STATE AUDITOR TO CONDUCT A MANAGEMENT AND  
PERFORMANCE AUDIT OF THE BOARD OF TRUSTEES OF THE STATE  
DEFERRED COMPENSATION PLAN AND PLAN ADMINISTRATOR  
CONTRACTED BY THE BOARD.

1           WHEREAS, the state Deferred Compensation Plan was  
2 established in 1981 in chapter 88E, Hawaii Revised Statutes  
3 (HRS), in accordance with section 457 of the Internal Revenue  
4 Code of 1954, as amended, for the benefit of public employees of  
5 the State and the counties of the State of Hawaii to enable  
6 these employees to defer a portion of their compensation to a  
7 future period of time; and

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9           WHEREAS, pursuant to chapter 88E, HRS, a Board of Trustees  
10 was established, with its members appointed by the Governor, to  
11 perform necessary duties and functions to establish and maintain  
12 a deferred compensation plan and to engage the services of a  
13 plan administrator in accordance with specifications as may be  
14 established by the Board; and

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16           WHEREAS, since its inception, the Deferred Compensation  
17 Plan has experienced rapid growth, with large numbers of public  
18 employees participating in the Plan and contributing a portion  
19 of their compensation into the Plan to be held and invested by  
20 the Board of Trustees in accordance with investment products  
21 permitted under the Plan and chapter 88E, HRS; and

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23           WHEREAS, concerns have been raised in recent years about  
24 the Deferred Compensation Plan and the plan administrator's lack  
25 of communication with the Plan members, lack of easy access to  
26 information relating to each member's contribution, investment  
27 performance, investment expenses, costs of administration, and  
28 each member's special needs and circumstances; and

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30           WHEREAS, numerous public employees and retirees of both the  
31 State and counties who are members of the Deferred Compensation

1 Plan have complained of the substantial lack of information  
2 regarding their accounts, their inability to obtain information  
3 on their investments from the plan administrator, and the  
4 difficulties that many of them have experienced in obtaining  
5 assistance in planning for their retirement, in meeting  
6 technical requirements of the Internal Revenue Service, and  
7 simply determining what to do with their investments in a  
8 rapidly changing economy; and  
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10 WHEREAS, despite having a Board of Trustees, members have  
11 little or no information relating to any meetings that the Board  
12 of Trustees may have had or may have in the future on matters  
13 that deal with investments, with no reports on any decisions  
14 that may have been made by the Board on any current and future  
15 plans for the Deferred Compensation Plan; and  
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17 WHEREAS, some members that have accepted ING Group as their  
18 plan administrator were promised easy access, timely and  
19 appropriate information, and an excess of information, and that  
20 these promises have yet to materialize, resulting instead in  
21 difficult access, with little if any information available; and  
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23 WHEREAS, in light of the recent downturn in the economy,  
24 the substantial loss of investments experienced by many Deferred  
25 Compensation Plan members, and the need for these members to  
26 make decisions that may affect their investments, the inability  
27 to access the plan administrator has created great concern among  
28 employees and retirees with regard to the Deferred Compensation  
29 Plan, the Board of Trustees, and the plan administrator; and  
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31 WHEREAS, given the growing number of members, particularly  
32 the growing number of retirees, the need to maximize members'  
33 investments, together with the need to make timely and  
34 appropriate decisions regarding members' investments, the Board  
35 of Trustees and the plan administrator contracted by the Board  
36 of Trustees must take positive steps to allow timely and easy  
37 access to each member's investments to enable the members to  
38 make timely and appropriate decisions on their investments; and  
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40 WHEREAS, there is a need for the State Auditor to conduct a  
41 management and performance audit of the Board of Trustees of the  
42 Deferred Compensation Plan to ensure that the Board of Trustees  
43 and the plan administrator are acting in the best interest and

1 meeting the needs of Deferred Compensation Plan members; now,  
2 therefore,

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4 BE IT RESOLVED by the Senate of the Twenty-fifth  
5 Legislature of the State of Hawaii, Regular Session of 2009, the  
6 House of Representatives concurring, that the State Auditor is  
7 requested to conduct a management and performance audit of the  
8 Board of Trustees of the Deferred Compensation Plan; and

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10 BE IT FURTHER RESOLVED that the State Auditor is requested  
11 to include in the audit a review of the contract decisions of  
12 the Board of Trustees, including a review of current and  
13 previous plan administrators contracted by the Board of  
14 Trustees, plan administrators' investment expenses, the number  
15 of investment managers retained by the plan administrators,  
16 method of selection of investment managers, criteria used to  
17 retain investment firms, the rate of return for each investment  
18 manager's portfolio, and a comparison of these investment  
19 decisions with deferred compensation plans of other  
20 jurisdictions; and

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22 BE IT FURTHER RESOLVED that the Board of Trustees, the  
23 Board of Trustees' staff, and plan administrator are requested  
24 to fully cooperate and promptly respond to the State Auditor's  
25 requests in conducting this audit; and

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27 BE IT FURTHER RESOLVED that the State Auditor is requested  
28 to report findings and recommendations, including any proposed  
29 implementing legislation, to the Legislature no later than  
30 twenty days before the convening of the Regular Session of 2010;  
31 and

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33 BE IT FURTHER RESOLVED that certified copies of this  
34 Concurrent Resolution be transmitted to the State Auditor and to  
35 the Chairperson of the Board of Trustees of the Deferred  
36 Compensation Plan.