HOUSE RESOLUTION

ESTABLISHING A TASK FORCE TO STUDY STRUCTURAL CHANGES AND
PROCEDURES TO THE OFFICE OF THE LEGISLATIVE AUDITOR TO
IMPROVE ACCOUNTABILITY AND INDEPENDENCE.

WHEREAS, the office of the auditor is established by
Article VII, section 10, of the Hawaii State Constitution, and
Chapter 23 of the Hawaii Revised Statutes; and

WHEREAS, the Article VII, section 10 of the Hawaii State
Constitution calls for the auditor to be appointed by the
legislature, and the budget of the office of the auditor is
included within the legislative budget; and

WHEREAS, in 2002, the year immediately preceding the tenure
of the current administration, the budget of the office of the
auditor stood at slightly over two million dollars; and

WHEREAS, in 2003, the legislature overrode a gubernatorial
veto and enacted Act 4, Special Session Laws of Hawaii 2003,
which established the audit revolving fund; and

WHEREAS, Act 4 compels executive departments to deposit
moneys received or generated by an executive department as a
result of the cost of financial audits conducted by or
contracted for by the auditor into the audit revolving fund; and

WHEREAS, deposits into the audit revolving fund have
fluctuated in the years since its creation from $3,013,125 in
fiscal year 2004, $1,500,000 in fiscal years 2005, and 2006,
$4,221,820 in fiscal year 2007, $2,429,360 in fiscal year 2008,
and $2,550,828, in fiscal years 2009 and 2010; and

WHEREAS, over the same time periods, the budget of the
office of the auditor, as included in the legislative budget,
has steadily increased to a high of $2,910,685 in fiscal year 2008; and

WHEREAS, appropriations out of the audit revolving fund more than doubled the actual expenditures by the office of the auditor during the same time period, with the office of the auditor authorized to expend over $9 million in fiscal year 2009 compared to just over $2 million if fiscal year 2002; and

WHEREAS, prior to 2003, the auditor was universally hailed for executing her duties in a fair and impartial manner; and

WHEREAS, in recent years, the audit process by the office of the auditor has taken a more biased and political flavor, including drafts of audits that present conclusions that overstep the scope of the office, such as in one highly publicized incident where the draft audit recommended the termination of a department director and drew legal conclusions of liability, even after the Attorney General testified in a Senate Investigative Committee that the department director was not criminally liable for purported violations of the law; and

WHEREAS, the accused department director and the Governor criticized the draft as "political", "lacks understanding", "fails to accurately assess factual information", and "completely absen[t] of objectivity."; and

WHEREAS, the final version of this particular audit has yet to be released, indicating major revisions and giving credence to the criticisms of the accused department director and Governor; and

WHEREAS, another example of this disturbing trend of impartiality is the very recently completed draft of an audit of the Department of Budget and Finance which was supposed to entail a financial examination of the department; and

WHEREAS, the auditor chose to implicitly accuse the Department of Budget and Finance of violating state law by investing state funds in student loan auction rate securities, a
short term investment that many jurisdictions invest general
funds in; and

WHEREAS, the investments have not lost a single dollar, and
the Department of Budget and Finance sold at least $10 million
of this type of security for par, or face, value; and

WHEREAS, these investments also pay interest periodically; and

WHEREAS, the draft has been criticized by the Governor as
"an unfounded, false, and defamatory attack on the integrity of
the department and its employees", but even more disturbing, the
draft also draws a legal conclusion about the state's purchase
of auction-rate securities that the auditor is unqualified to
make, is not based on evidence and is at odds with a written
opinion by the state attorney general; and

WHEREAS, the only accountability measures currently in
place for the office of the legislative auditor is the
legislative budget process, for which the legislature has
increased the budget over the years, and the appointment
process, which is once every eight years; and

WHEREAS, other states strive for accountability and
impartiality in their auditors through a number of means, such
as creating an office that is not attached to either the
executive or legislative branch, making the auditor an elected
position, or having another entity provide a check against the
auditor, such as a state inspector general; and

WHEREAS, recent events have broached the possibility that
structural changes may be needed to increase the accountability
and independence of the office of the auditor; now, therefore,

BE IT RESOLVED by the House of Representatives of the
Twenty-fifth Legislature of the State of Hawaii, Regular Session
of 2010, that there be a task force created to study the various
options for increasing the accountability and independence of
the office of the auditor, and the feasibility of the various
options; and
BE IT FURTHER RESOLVED that the task force be composed of an equal number of individuals from the majority and minority caucuses of both the House and Senate, as selected by their respective leadership; and

BE IT FURTHER RESOLVED that the task force also include a representative from the executive branch, the office of the auditor, and the legislative reference bureau; and

BE IT FURTHER RESOLVED that the task force elect a chair from its membership, not to include the representative from the executive branch, the office of the auditor, or the legislative reference bureau; and

BE IT FURTHER RESOLVED that the task force submit its written findings and recommendations, including potential legislation, to the Legislature not later than twenty days prior to the convening of the Regular Session of 2011; and

BE IT FURTHER RESOLVED that certified copies of this Resolution be transmitted to Governor, the Speaker of the House of Representatives, the Senate President, the Office of the Auditor, and the Legislative Reference Bureau.

OFFERED BY:  

MAR 10 2010