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## SENATE CONCURRENT RESOLUTION

AUTHORIZING THE EXCHANGE AND SALE OF PROPERTY BETWEEN THE STATE OF HAWAII AND NAPOLEON, ET AL., APPROVED BY THE BOARD OF LAND AND NATURAL RESOURCES AT ITS MEETING ON JUNE 8, 2012, UNDER AGENDA ITEM D-11.

1           WHEREAS, section 171-50, Hawaii Revised Statutes, provides  
2 that any exchange of public land for private land shall be  
3 subject to disapproval by the Legislature by two-thirds vote of  
4 either the Senate or the House of Representatives or by majority  
5 vote of both in any regular or special session following the  
6 date of the Board of Land and Natural Resources' approval in  
7 principle of the exchange; and

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9           WHEREAS, section 171-50(b), Hawaii Revised Statutes,  
10 provides that any difference in value of the public land over  
11 the private land shall be paid to the State at the time of the  
12 exchange, provided that no exchange shall be made should the  
13 public land exceed 120 percent of the value of the private land;  
14 and

15  
16           WHEREAS, section 171-50(c), Hawaii Revised Statutes,  
17 provides that the state department or agency shall submit for  
18 introduction to the Legislature a resolution for review of  
19 action on any exchange to be consummated by the Board of Land  
20 and Natural Resources wherein exchange deeds will be executed by  
21 the parties together; and

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23           WHEREAS, section 171-64.7, Hawaii Revised Statutes,  
24 provides that no sale or gift of ceded lands or interest therein  
25 shall occur without the prior approval of the sale or gift by  
26 the Legislature by concurrent resolution to be adopted by each  
27 house by at least a two-thirds majority vote of the members to  
28 which each house is entitled in a regular or special session at  
29 which a Concurrent Resolution is submitted for approval of the  
30 sale; and



1           WHEREAS, section 171-64.7(c), Hawaii Revised Statutes,  
2 provides that the state department or agency shall submit for  
3 introduction to the Legislature a Concurrent Resolution for  
4 review of the proposed sale or gift; and

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6           WHEREAS, sections 171-50(c) and 171-64.7, Hawaii Revised  
7 Statutes, require the Resolution or Concurrent Resolution to  
8 contain the following information:

- 9  
10           (1) The specific location and size in square feet or in  
11 other precise measure of the parcels of land to be  
12 exchanged, sold, or given;  
13  
14           (2) The value of the lands to be conveyed, sold or given  
15 by the State and the private party;  
16  
17           (3) The name or names of the appraiser or appraisers;  
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19           (4) The date of the appraisal valuation;  
20  
21           (5) The purpose for which the lands are being exchanged,  
22 sold, or given;  
23  
24           (6) A detailed summary of any development plans for the  
25 land to be exchanged, sold, or given; and  
26  
27           (7) A statement of whether the land is, or is not, land  
28 that was classed as government or crown lands previous  
29 to August 15, 1895, or was acquired by the State in  
30 exchange for such lands, and a detailed explanation of  
31 how the state department or agency made this  
32 determination; and

33  
34           WHEREAS, sections 171-50(c) and 171-64.7(c), Hawaii Revised  
35 Statutes, also provide that a copy of the draft resolution, or  
36 Concurrent Resolution, shall also be submitted to the Office of  
37 Hawaiian Affairs at least three months prior to the convening of  
38 a regular or special session of the Legislature to allow the  
39 Office of Hawaiian Affairs to determine whether the land was  
40 classed as government or crown lands previous to August 15,  
41 1895, or was acquired by the State in exchange for such lands;  
42 and



1 WHEREAS, section 171-64.7(e), Hawaii Revised Statutes,  
2 provides that prior to finalizing any proposal for the sale or  
3 gift of lands described in section 171-64.7(a), Hawaii Revised  
4 Statutes, to a person or entity other than the State, its  
5 agencies, or its entities, and prior to submission of the  
6 Concurrent Resolution to the Legislature under section 171-  
7 64.7(c), Hawaii Revised Statutes, the State, agency, or entity,  
8 as appropriate, shall hold an informational briefing on the  
9 proposed sale or gift in the community where the land to be sold  
10 or given is located; and  
11

12 WHEREAS, at its meeting on June 8, 2012, under agenda item  
13 D-11, the Board of Land and Natural Resources approved a land  
14 exchange and sale of property pursuant to the stipulated final  
15 judgment on title filed on April 12, 1996, and the stipulated  
16 judgment on partition filed on April 1, 1997, in Napoleon, et  
17 al., v. State of Hawaii, et al., Civ. No. 92-0789, for land  
18 located at Kahananui, Molokai, Hawaii, Tax Map Keys: (2) 5-6-  
19 06:14; (2) 5-6-06:15; (2) 5-6-03:12; (2) 5-6-03:08; and (2) 5-6-  
20 03:10; and  
21

22 WHEREAS, following approval of the exchange and sale by the  
23 Board of Land and Natural Resources, a copy of the Concurrent  
24 Resolution was transmitted to the Office of Hawaiian Affairs at  
25 least three months prior to the convening of this regular  
26 session of the Legislature to allow the Office to determine  
27 whether the land was classed as government or crown lands  
28 previous to August 15, 1895, or was acquired by the State in  
29 exchange for such lands; and  
30

31 WHEREAS, the Department of Land and Natural Resources duly  
32 conducted a public informational briefing on the sale of this  
33 parcel on November 13, 2012, at 5:30 p.m. at the Kilohana  
34 Recreational Center, 334 A1 Kamehameha V Highway, Kaunakakai,  
35 Molokai, Hawaii, following publication of notice of the briefing  
36 in the Molokai Dispatch newspaper on October 24, 2012, the  
37 Honolulu Star-Advertiser newspaper on October 28, 2012, the  
38 Hawaii Tribune-Herald newspaper on October 28, 2012, the West  
39 Hawaii Today newspaper on October 28, 2012, the Garden Isle  
40 newspaper on October 28, 2012, and the Maui News newspaper on  
41 October 28, 2012; now, therefore,



1 BE IT RESOLVED by the Senate of the Twenty-seventh  
2 Legislature of the State of Hawaii, Regular Session of 2013, the  
3 House of Representatives concurring, the following exchange and  
4 sale of property between the State of Hawaii and Napoleon, et  
5 al., approved by the Board of Land and Natural Resources at its  
6 meeting on June 8, 2012, under agenda item D-11, pursuant to the  
7 stipulated judgment on title and the stipulated judgment on  
8 partition in Napoleon, et al., v. State of Hawaii, et al., Civ.  
9 No. 92-0789, for land located at Kahananui, Molokai, Hawaii, Tax  
10 Map Keys: (2) 5-6-06:14; (2) 5-6-06:15; (2) 5-6-03:12; (2) 5-6-  
11 03:08; and (2) 5-6-03:10, is hereby approved by the Legislature:  
12

13 (1) All lands are located at Kahananui, Molokai, Hawaii,  
14 being further identified by Tax Map Keys: (2) 5-6-  
15 06:14, having an area of 168.04 acres; (2) 5-6-06:15,  
16 having an area of 109.014 acres; (2) 5-6-03:12, having  
17 an area of 0.338 acres; (2) 5-6-03:08, having an area  
18 of 1.018 acres; and (2) 5-6-03:10 having an area of  
19 0.401 acres;  
20

21 (2) The lands to be conveyed to Napoleon, et al.:

22  
23 (A) Tax Map Key (2) 5-6-06:15, having a value of  
24 \$138,000;  
25

26 The lands to be sold and proceeds divided amongst all  
27 parties - 39.89 per cent to the State, 60.11 per cent  
28 to Napoleon, et al.:

29  
30 (A) Tax Map Key (2) 5-6-03:08, having a value of  
31 \$76,000; and  
32

33 (B) Tax Map Key (2) 5-6-03:10, having a value of and  
34 \$65,000;  
35

36 The lands to be conveyed to the State:

37  
38 (A) Tax Map Key (2) 5-6-06:14, having a value of  
39 \$91,000; and  
40

41 (B) Tax Map Key (2) 5-6-03:12, having a value of  
42 \$82,500;  
43



- 1 (3) All lands were appraised by Lawrence P. Swenson of  
2 Swenson Appraisal;  
3
- 4 (4) All lands were appraised on March 21, 1996;  
5
- 6 (5) Whereas the State owns an undivided half interest in  
7 the lands identified, the purpose of the exchange and  
8 sale is to consolidate the State's interest in lands;  
9
- 10 (6) One of the parcels to be conveyed to the State will be  
11 added to the State's Molokai Forest Reserve. The  
12 second parcel to be conveyed to the State will be  
13 administered by the Department of Land and Natural  
14 Resources, which currently has no development plans  
15 for the parcel. The remaining parcel that is not  
16 intended for sale will be conveyed to the four  
17 Hawaiian families who hold the remaining one-half  
18 interest in all the parcels. The families are the  
19 Napoleon family, the Kailiwai family, the Kunuiakea  
20 family, and the Fountain family; and  
21
- 22 (7) The five parcels referenced above are Section 5(b)  
23 lands of the Admission Act of 1959. The lands  
24 referenced above are portions of Mahele Award 48 to  
25 Kaeliwai, which granted a one-half interest of the  
26 five parcels to Kaeliwai with the remaining one-half  
27 interest being retained by the Kingdom of Hawaii, now  
28 the State of Hawaii; and  
29

30 BE IT FURTHER RESOLVED that a certified copy of this  
31 Concurrent Resolution be transmitted to the Chairperson of the  
32 Board of Land and Natural Resources.

