

JAN 26 2015

SENATE CONCURRENT RESOLUTION

REQUESTING THAT THE EXECUTIVE BRANCH PROVIDE ACCURATE AND
COMPLETE ACCOUNTING OF PUBLIC LAND TRUST REVENUES UNDER
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 constitutional obligations and duties to the
7 Native Hawaiian people, including, among others, to clarify the
8 pro rata portion of revenues from the public land trust to which
9 the Office of Hawaiian Affairs is entitled for the benefit of
10 Native Hawaiians under Article XII, sections 4 and 6, of the
11 Hawaii State Constitution; and
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13 WHEREAS, Act 178, Session Laws of Hawaii 2006, which took
14 effect on June 7, 2006, was enacted with the purpose of
15 providing "interim measures to ensure that an adequate amount of
16 income and proceeds is made available to the office of Hawaiian
17 affairs from the pro rata portion of the public land trust, for
18 the betterment of the conditions of native Hawaiians;" and
19

20 WHEREAS, Act 178 carried out this interim purpose by
21 requiring that:
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23 [U]ntil further action is taken by the legislature for
24 this purpose, the income and proceeds from the pro
25 rata portion of the public land trust under article
26 XII, section 6, of the state constitution for
27 expenditure by the office of Hawaiian affairs for the
28 betterment of the conditions of native Hawaiians for
29 each fiscal year beginning with fiscal year 2005-2006
30 shall be \$15,100,000[;]
31

32 and



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1
2 WHEREAS, another important purpose of Act 178 is to
3 identify revenue-generating public trust lands by requiring that
4 the Department of Land and Natural Resources provide an annual
5 accounting of all receipts from those lands to the Legislature;
6 and
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8 WHEREAS, section 5 of Act 178 requires that no later than
9 January 1 of each year, the Department of Land and Natural
10 Resources, with the cooperation of the Department of Budget and
11 Finance and any other state department or agency that uses or
12 manages public lands, provide an accounting of all receipts from
13 lands described in section 5(f) of the Admission Act for the
14 prior fiscal year; and
15

16 WHEREAS, section 5 of Act 178 also requires that, with
17 respect to each receipt, the Department of Land and Natural
18 Resources shall identify:
19

- 20 (1) The total gross amount;
- 21
- 22 (2) The amount transferred to the Office of Hawaiian
23 Affairs;
- 24
- 25 (3) The amount retained by the State;
- 26
- 27 (4) The account or fund in which the amount specified in
28 paragraph (3) was transferred or deposited;
- 29
- 30 (5) The parcel of land subject to section 5(f) of the
31 Admission Act that generated the receipt, whether by
32 tax map key number, Department of Land and Natural
33 Resources inventory number, or other recognizable
34 description; and
35
- 36 (6) The state department or agency that received the total
37 gross amount identified in paragraph (1); and
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39 WHEREAS, in its report to the Legislature for fiscal year
40 2011-2012 (dated November 2012), the Department of Land and
41 Natural Resources reported total gross receipts for all
42 departments and agencies in the amount of \$150,939,203; and



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1
2 WHEREAS, the Office of Hawaiian Affairs retained an outside
3 accounting consultant to evaluate the accuracy and completeness
4 of the public land trust revenues reported for fiscal year 2011-
5 2012 by the Department of Land and Natural Resources in its
6 report to the Legislature; and
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8 WHEREAS, the Office of Hawaiian Affairs' outside accounting
9 consultant estimated that as much as \$226,100,000 in public land
10 trust revenues went unreported for fiscal year 2011-2012 in the
11 Department of Land and Natural Resources' report to the
12 Legislature; and
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14 WHEREAS, the amount of public land trust revenues subject
15 to the Office of Hawaiian Affairs' pro rata share requires
16 further analysis; and
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18 WHEREAS, accurate and complete reporting of public land
19 trust revenues is necessary to facilitate the analysis of the
20 Office of Hawaiian Affairs' pro rata share; and
21

22 WHEREAS, full compliance with the reporting requirements of
23 Act 178 is critical to fulfilling the State's trust obligation
24 regarding the public land trust and the Office of Hawaiian
25 Affairs; now, therefore,
26

27 BE IT RESOLVED by the Senate of the Twenty-eighth
28 Legislature of the State of Hawaii, Regular Session of 2015, the
29 House of Representatives concurring, that the Governor is
30 requested to direct all state departments and agencies to comply
31 fully with section 5 of Act 178 by providing annually to the
32 Department of Land and Natural Resources an accurate and
33 complete accounting of all receipts from lands described in
34 section 5(f) of the Admission Act, as required by section 5 of
35 Act 178, Session Laws of Hawaii 2006; and
36

37 BE IT FURTHER RESOLVED that certified copies of this
38 Concurrent Resolution be transmitted to the Governor, the
39 Attorney General, the Chairperson of the Board of Land and
40 Natural Resources, the Director of Finance, the heads of all
41 state departments or agencies that use or manage lands described

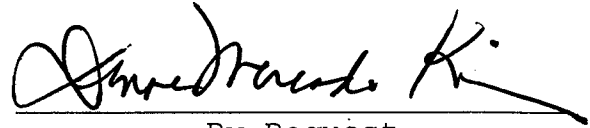


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1 in section 5(f) of the Admission Act, and the Chairperson of the
2 Board of Trustees of the Office of Hawaiian Affairs.

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OFFERED BY:



By Request

