

MAR 08 2019

SENATE CONCURRENT RESOLUTION

REQUESTING THE OFFICE OF HAWAIIAN AFFAIRS TO CONDUCT AN
INDEPENDENT FISCAL AUDIT OF ALL LIMITED LIABILITY
CORPORATIONS CREATED OR CONTROLLED BY THE OFFICE.

1 WHEREAS, pursuant to Article VII, section 10, of the Hawaii
2 State Constitution, the Office of the Auditor shall conduct
3 post-audits of the performance of all offices and agencies of
4 the State; and

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6 WHEREAS, independent audits are necessary to assess
7 government performance and to hold agencies accountable for
8 their policy implementation, program management, and
9 expenditures of public funds; and

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11 WHEREAS, the purpose of independent audits is to help
12 eliminate waste and inefficiency in government and to ensure
13 that public funds are expended effectively; and

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15 WHEREAS, the Office of Hawaiian Affairs has created and
16 used limited liability companies (LLCs) to distribute Native
17 Hawaiian Trust Fund monies, including in instances when the
18 recipient would not have otherwise met Office of Hawaiian
19 Affairs requirements for receiving funds; and

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21 WHEREAS, LLCs are a relatively new legal construct, and it
22 is unsettled whether LLCs created by the Office of Hawaiian
23 Affairs are state organizations and subject to laws generally
24 applicable to state agencies, like laws pertaining to the State
25 Procurement Code, State Ethics Code, Sunshine Law, and Uniform
26 Information Practices Act; and

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28 WHEREAS, the transactions, accounts, procedures, and
29 performance of the LLCs created and used by the Office of
30 Hawaiian Affairs were not included in the scope of the Office of
31 the Auditor's 2018 Audit of the Office of Hawaiian Affairs; and
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S.C.R. NO. 70

1 WHEREAS, the Office of the Auditor's 2018 Audit of the
 2 Office of Hawaiian Affairs raised concerns regarding spending
 3 irregularities and possible breaches of the Office's fiduciary
 4 duties; and

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 6 WHEREAS, the ongoing fiscal health of the Office of
 7 Hawaiian Affairs is vital to its mission of improving the
 8 conditions and well-being of present and future Native Hawaiians
 9 and Hawaiians; and

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 11 WHEREAS, an independent audit of LLCs created by the Office
 12 of Hawaiian Affairs is integral to understanding the Office's
 13 fiscal health and mission compliance; now, therefore,

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 15 BE IT RESOLVED by the Senate of the Thirtieth Legislature
 16 of the State of Hawaii, Regular Session of 2019, the House of
 17 Representatives concurring, that the Office of Hawaiian Affairs
 18 is requested to conduct an independent fiscal audit of all LLCs
 19 created or controlled by the Office of Hawaiian Affairs; and

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 21 BE IT FURTHER RESOLVED that the Office of Hawaiian Affairs
 22 is requested to report the findings and recommendations of the
 23 independent fiscal audit to the Legislature no later than twenty
 24 days prior to the convening of the Regular Session of 2020; and

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 26 BE IT FURTHER RESOLVED that certified copies of this
 27 Concurrent Resolution be transmitted to the Chairperson of the
 28 Board of Trustees of the Office of Hawaiian Affairs, Chief
 29 Executive Officer of the Office of Hawaiian Affairs, and State
 30 Auditor.

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OFFERED BY:

Michelle A. Iudani

Clarence K. Nishikawa

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