

STAND. COM. REP. NO.

2350

Honolulu, Hawaii

, 2006

FEB 17

RE: S.B. No. 2216

S.D. 1

Honorable Robert Bunda
President of the Senate
Twenty-Third State Legislature
Regular Session of 2006
State of Hawaii

Sir:

Your Committees on Water, Land, and Agriculture and Higher Education, to which was referred S.B. No. 2216 entitled:

"A BILL FOR AN ACT RELATING TO THE MAUNA KEA SUMMIT,"

beg leave to report as follows:

The purpose of this measure is to require the Department of Land and Natural Resources (DLNR) to lease the Mauna Kea summit's lands at a reasonable rate that reflects the cultural value of the site.

Testimony in opposition to this measure was submitted by the Office of Hawaiian Affairs, Mauna Kea Anaina Hou, and one individual. Comments were also submitted by the Department of the Attorney General and DLNR.

Your Committees find that the Mauna Kea summit is a unique and invaluable asset to this State. It is home to many archaeological sites and many traditional cultural properties eligible for listing in the National Register of Historic Places.

However, your Committees further find that the lease agreement between DLNR and the University of Hawaii (UH), as well as the sublease agreements between UH and the individual astronomy institutions and universities, do not reflect the economic and cultural value of the site. Specifically, there are ten negotiated subleases between UH and various individual astronomy institutions and universities. Of these subleases:



- (1) Nine of them have a lease rent of \$1 per year and the tenth does not have a lease rent rate and is provided by UH at no cost; and
- (2) All of them were executed at different times; however, nine of the subleases are set to expire on December 31, 2033, and the tenth sublease expired in 2003 and has been automatically extended until December 31, 2033.

Your Committees have amended this measure by changing the lease rent requirement from "a reasonable rate" to "fair market value."

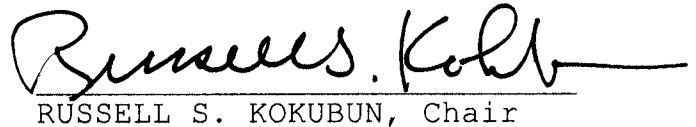
Your Committees noted testimony submitted by the Department of the Attorney General that expressed concerns over a portion of the measure, which provides requirements for leases made specifically for Mauna Kea summit lands. It is the Attorney General's opinion that this provision is in conflict with Article XI, Section 5 of the Hawaii State Constitution. However, your Committees find that the undervalued leases and subleases are a very important issue and merit further discussion.

As affirmed by the records of votes of the members of your Committees on Water, Land, and Agriculture and Higher Education that are attached to this report, your Committees are in accord with the intent and purpose of S.B. No. 2216, as amended herein, and recommend that it pass Second Reading in the form attached hereto as S.B. No. 2216, S.D. 1, and be referred to the Committee on Ways and Means.

Respectfully submitted on
behalf of the members of the
Committees on Water, Land, and
Agriculture and Higher
Education,



CLAYTON HEE, Chair



RUSSELL S. KOKUBUN, Chair



The Senate
 Twenty-Third Legislature
 State of Hawaii

Record of Votes of the
 Committee on Water, Land and Agriculture
 (Bills and Resolutions)

Measure:* <i>SB2216</i>	Committee Referral: <i>WCA/HRE, WAM</i>	Date: <i>2/14/06</i>		
<input type="checkbox"/> The committee is reconsidering its previous decision on this measure. If so, then the previous decision was to: _____				
The Recommendation is to: <input type="checkbox"/> Pass, unamended (2312) <input checked="" type="checkbox"/> Pass, with amendments (2311) <input type="checkbox"/> Hold (2310) <input type="checkbox"/> Recommit (2313)				
Members	Ayes	Ayes(WR)	Nays	Excused
KOKUBUN, Russell S. (C)	✓			
HOOSER, Gary L. (VC)	✓			
ENGLISH, J. Kalani	✓			
FUKUNAGA, Carol				✓
HEMMINGS, Fred	✓			
TOTAL	<i>4</i>			<i>1</i>
Recommendation: <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted				
Chair's or Designee's Signature: <i>[Signature]</i>				
Distribution: Original Yellow Pink Goldenrod File with Committee Report Clerk's Office Drafting Agency Committee File Copy				

*Do not list more than one measure per Record of Votes.

