
SENATE CONCURRENT RESOLUTION

REQUESTING, FOR REVIEW BY THE LEGISLATURE, AN ACCOUNTING AND REPORT CONCERNING ITEMS OF VALUE, INCLUDING VIEWING TIME ON MAUNA KEA TELESCOPES, PROVIDED TO THE UNIVERSITY OF HAWAII FOR THE LEASE OR USE OF FACILITIES ON PUBLIC TRUST LANDS ON THE SUMMIT OF MAUNA KEA.

1 WHEREAS, the lands on the summit of Mauna Kea are public
2 lands returned to Hawaii at Statehood (1959) under section 5(f)
3 of the Admission Act and subject to an express public trust; and
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5 WHEREAS, that trust imposes an express public trust duty
6 and legal restrictions on the State, including a requirement
7 that all revenues derived from the use of the public trust lands
8 must be deposited into the public lands trust fund; and
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10 WHEREAS, under section 171-17, Hawaii Revised Statutes, the
11 State's Board of Land and Natural Resources (BLNR) is required
12 to assess and charge fair-market lease rent for the use of
13 section 5(f) public trust lands (ceded lands); and
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15 WHEREAS, in 1961, the Mauna Kea summit, forestry, and
16 watershed lands were designated for protection and classified as
17 a state conservation district, pursuant to section 205-2, Hawaii
18 Revised Statutes; and
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20 WHEREAS, in 1968, the BLNR leased approximately 13,320
21 acres of public trust lands on the Mauna Kea summit and slopes
22 to the University of Hawaii (UH) for "a scientific complex,
23 including without limitation an observatory...." (General Lease
24 No. S-4191); and
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26 WHEREAS, the lease term was sixty-five years until 2033,
27 and the lease rent to UH was a nominal \$1 per year; and
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29 WHEREAS, the lease or setting aside of public trust lands
30 from BLNR to a state department, agency, or county is often made



1 for nominal or no rent because the entities are sub-units of the
2 State; and

3
4 WHEREAS, since 1968, UH has entered into multiple sub-lease
5 and use agreements with private third parties for the
6 development of telescope facilities on Mauna Kea's summit; and

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8 WHEREAS, in exchange for the sub-lease and use agreements,
9 UH obtained the right to viewing time on each of the telescopes
10 and a formally-established sub-lease rent of a nominal amount;
11 now, therefore,

12
13 BE IT RESOLVED by the Senate of the Twenty-fifth
14 Legislature of the State of Hawaii, Regular Session of 2010, the
15 House of Representatives concurring, that the UH is requested to
16 provide to the Legislature no later than twenty days prior to
17 the convening of the Regular Session of 2011, a written
18 accounting and report setting forth the following information:

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20 (1) A list of the total viewing time provided to UH, its
21 employees, agents, faculty, researchers, affiliates,
22 graduate students, visiting scientists, and all those
23 operating under or in association with UH, without
24 exception, for each telescope or astronomical facility
25 on Mauna Kea by year since 2007;

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27 (2) A determination of the financial value by night or by
28 hour of the viewing time for each facility for each
29 year since 2007 for all of the viewing time set forth
30 in paragraph (1);

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32 (3) A list of all value (viewing time, financial, quid pro
33 quo exchanges, and any and every other benefit)
34 received by UH in relation to each facility on Mauna
35 Kea (or the sponsor) by year since 2007;

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37 (4) A list and copy of every contract or working agreement
38 or any other agreement UH has entered into for the use
39 of any facility on Mauna Kea by year since 2007; and

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41 (5) A plan of action that will ensure UH will develop a
42 self-sustaining model to meet its obligation to the
43 community while working to preserve and protect the



1 Mauna Kea lands including a process and considerations
2 for the negotiation of future lease agreements; and
3

4 BE IT FURTHER RESOLVED that certified copies of this
5 Concurrent Resolution be transmitted to the President of the
6 University of Hawaii, the Executive Director of the University
7 of Hawaii Institute for Astronomy, the Chair of the Board of
8 Regents of the University of Hawaii, the Chair of the Board of
9 Land and Natural Resources, and the Director of Commerce and
10 Consumer Affairs.

