

Honolulu, Hawaii

March 29, 2010

RE: H.R. No. 226
H.D. 1

Honorable Calvin K.Y. Say
Speaker, House of Representatives
Twenty-Fifth State Legislature
Regular Session of 2010
State of Hawaii

Sir:

Your Committees on Higher Education and Water, Land, & Ocean Resources, to which was referred H.R. No. 226 entitled:

"HOUSE RESOLUTION REQUESTING THAT THE UNIVERSITY OF HAWAII INSTITUTE FOR ASTRONOMY PROVIDE A WRITTEN REPORT OF VIEWING TIME IN LIEU OF LEASE RENT AND FOR THE USE OF PUBLIC TRUST LANDS ON THE SUMMIT OF MAUNA KEA,"

beg leave to report as follows:

The purpose of this resolution is to improve accountability for use of the lands on Mauna Kea. Specifically, this measure requests that the University of Hawaii (UH) Institute for Astronomy (IFA) submit a written accounting and report to the Auditor and the Legislature, to be reviewed by the Auditor, regarding the total viewing time provided to UH and IFA since 1968, including the financial value of the viewing time, a list of other benefits received for each facility on Mauna Kea, and copies of contracts entered into for use of Mauna Kea.

Life of the Land, KAHEA, and several concerned individuals testified in support of this resolution. The Hawaii Island Economic Development Board and Hewahewanui Ohana Council opposed this measure. UH, Sierra Club-Hawaii Chapter, and a concerned individual offered comments.



Your Committees have amended this resolution by:

- (1) Deleting the clause relating to the requirement of the Board of Land and Natural Resources (BLNR) and IFA that entities sub-leasing Mauna Kea lands pay \$1 each year in exchange for observation viewing time on the telescopes;
- (2) Deleting language relating to extraordinary amounts of payment for each observation viewing night using Mauna Kea telescope facilities, such as the payment by Yale University to the William M. Keck Foundation;
- (3) Inserting a clause stating that Act 132, Session Laws of Hawaii 2009, authorized the UH Board of Regents (BOR) to charge fees and enter into lease agreements for the Mauna Kea lands, and established the Mauna Kea Lands Management Special Fund for UH to carry out its duty to manage the Mauna Kea lands;
- (4) Inserting a clause relating to UH's request of \$2,180,000 in general funds to operate the Office of Mauna Kea Management;
- (5) Deleting language relating to IFA's patents on various technologies;
- (6) Deleting the clause that states there has been no public accounting of the patent or lease contracts held by foreign and out-of-state entities;
- (7) Clarifying that the purpose of reviewing contracts and use agreements held by foreign and out-of-state entities is to ensure they contribute a fair and equitable share in ensuring the continued protection and maintenance of the Mauna Kea lands;
- (8) Requesting BOR, rather than IFA, to submit to the Legislature, no later than 20 days prior to the convening of the 2011 regular session, a report of observation viewing time on the telescopes on Mauna Kea;
- (9) In regards to the report:
 - (A) Limiting the list of total viewing time to that provided during the 2009-2010 fiscal year, rather than since 1968;



- (B) Changing the determination of the financial value of the viewing time for each facility since 1968, to a determination of the net financial gain from astronomy-related activity on Mauna Kea received by UH during the 2009-2010 fiscal year;
 - (C) Limiting the list of all value received to those received during the 2009-2010 fiscal year, rather than since 1968;
 - (D) Changing the requirement to provide a copy of every contract, working or use agreement, and any other written understanding since 1968, to a summary of those currently in effect; and
 - (E) Including a plan of action that will ensure UH will develop a self-sustaining model to meet its obligation to the community while working to preserve and protect the Mauna Kea lands;
- (10) Deleting the request that the Auditor conduct a review of the report and submit any findings and recommendations to the Legislature;
 - (11) Requiring certified copies of the resolution to also be transmitted to the Chairperson of BOR and Executive Director of IFA, but not to the State Auditor and Chairperson of BLNR; and
 - (12) Making technical, nonsubstantive amendments for clarity, consistency, and style, including changing the title to read, "REQUESTING THE UNIVERSITY OF HAWAII BOARD OF REGENTS TO SUBMIT TO THE LEGISLATURE A REPORT OF OBSERVATION VIEWING TIME ON THE TELESCOPES ON MAUNA KEA."

As affirmed by the records of votes of the members of your Committees on Higher Education and Water, Land, & Ocean Resources that are attached to this report, your Committees concur with the intent and purpose of H.R. No. 226, as amended herein, and recommend that it be referred to the Committee on Legislative Management, in the form attached hereto as H.R. No. 226, H.D. 1.



Respectfully submitted on
behalf of the members of the
Committees on Higher Education
and Water, Land, & Ocean
Resources,

for Ken Ito
KEN ITO, Chair

Jerry L. Chang
JERRY L. CHANG, Chair



State of Hawaii
House of Representatives
The Twenty-fifth Legislature

HOUSE 1012-10

Record of Votes of the Committee on Higher Education

Bill/Resolution No.: <i>HR 226</i>	Committee Referral: <i>HED/WLD, LMG</i>	Date: <i>MAR, 22, 2010</i>		
<input type="checkbox"/> The committee is reconsidering its previous decision on the measure.				
The recommendation is to: <input type="checkbox"/> Pass, unamended (as is) <input checked="" type="checkbox"/> Pass, with amendments (HD) <input type="checkbox"/> Hold <input type="checkbox"/> Pass short form bill with HD to recommit for future public hearing (recommit)				
HED Members	Ayes	Ayes (WR)	Nays	Excused
1. CHANG, Jerry L. (C)	✓			
2. NAKASHIMA, Mark M. (VC)	✓			
3. BERG, Lyla B.	✓			
4. BERTRAM, Joe, III				✓
5. HANOHANO, Faye P.	✓			
6. MANAHAN, Joey				✓
7. RHOADS, Karl	✓			
8. SAIKI, Scott K.	✓			
9. SHIMABUKURO, Maile S.L.				✓
10. TAKAI, K. Mark	✓			
11. TAKUMI, Roy M.	✓			
12. YAMANE, Ryan I.				✓
13. CHING, Corinne W.L.	✓			
14. PINE, Kimberly Marcos	✓			
TOTAL (14)	10			4
The recommendation is: <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted If joint referral, _____ did not support recommendation. committee acronym(s)				
Vice Chair's or designee's signature: <i>[Signature]</i>				
Distribution: Original (White) – Committee Duplicate (Yellow) – Chief Clerk's Office Duplicate (Pink) – HMSO				

State of Hawaii
House of Representatives
The Twenty-fifth Legislature

HSCOR 1012-10

Record of Votes of the Committee on Water, Land, & Ocean Resources

Bill/Resolution No.: HR 226	Committee Referral: HED/WLO, LMG	Date: 3/25/10		
<input type="checkbox"/> The committee is reconsidering its previous decision on the measure.				
The recommendation is to: <input type="checkbox"/> Pass, unamended (as is) <input checked="" type="checkbox"/> Pass, with amendments (HD) <input type="checkbox"/> Hold <input type="checkbox"/> Pass short form bill with HD to recommit for future public hearing (recommit)				
WLO Members	Ayes	Ayes (WR)	Nays	Excused
1. ITO, Ken (C)	✓			
2. HAR, Sharon E. (VC)	✓			
3. CABANILLA, Rida	✓			
4. CHANG, Jerry L.	✓			
5. CHONG, Pono				✓
6. COFFMAN, Denny	✓			
7. HERKES, Robert N.	✓			
8. LEE, Chris	✓			
9. LUKE, Sylvia				✓
10. MORITA, Hermina M.				✓
11. SAGUM, Roland D., III	✓			
12. CHING, Corinne W.L.	✓			
13. THIELEN, Cynthia	✓			
TOTAL (13)	10			3
The recommendation is: <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted If joint referral, _____ did not support recommendation. <small>committee acronym(s)</small>				
Vice Chair's or designee's signature: _____ 				
Distribution: Original (White) – Committee Duplicate (Yellow) – Chief Clerk's Office Duplicate (Pink) – HMSO				