

Honolulu, Hawaii

FEB 18 2009

RE: S.B. No. 502
S.D. 1

Honorable Colleen Hanabusa
President of the Senate
Twenty-Fifth State Legislature
Regular Session of 2009
State of Hawaii

Madam:

Your Committees on Higher Education and Water, Land, Agriculture, and Hawaiian Affairs, to which was referred S.B. No. 502 entitled:

"A BILL FOR AN ACT RELATING TO THE UNIVERSITY OF HAWAII,"

beg leave to report as follows:

The purpose of this measure is to authorize the Board of Regents of the University of Hawai'i to:

- (1) Charge fees and enter into lease agreements for the Mauna Kea lands under its control;
- (2) Adopt rules to regulate public and commercial activities on Mauna Kea lands;
- (3) Establish and collect administrative fines for violations; and
- (4) Establish a Mauna Kea lands management special fund to assist the University of Hawai'i in its task of regulating the use of the Mauna Kea lands.

Testimony in support of this measure was submitted by the University of Hawai'i System; Department of Business, Economic Development, and Tourism; and Association of Hawaiian Civic Clubs. KAHEA, the Hawaiian-Environmental Alliance; Sierra Club Hawai'i Chapter; and four individuals submitted testimony in opposition.



Copies of written testimony are available for review on the Legislature's website.

Your Committees find that the issues surrounding the Mauna Kea lands are complex and varied, ranging from native Hawaiian rights and the use of ceded lands; the economic benefits of Mauna Kea lands activities; jurisdictional responsibilities; financial management; land and natural resource management; infrastructure requirements; and the balance of short-term needs and long-range planning.

Your Committees further find that there have been extensive efforts to address these issues, including the 1995 Revised Management Plan, adopted by the Board of Land and Natural Resources, for the University of Hawai'i Management Areas on Mauna Kea, which assigns management and enforcement responsibilities of public and commercial use and institutes commercial use and management controls; the University of Hawai'i Mauna Kea Science Reserve Master Plan 2000 Master Plan, adopted by the Board of Regents as the policy framework for the responsible stewardship and use of university-managed lands on Mauna Kea; and the Comprehensive Management Plan for Mauna Kea, which is currently in public review.

Your Committees fully understand that there will not be agreement by all the parties. As with any complex issue, compromise is not always possible. Your Committees commend those involved with developing the Comprehensive Management Plan for Mauna Kea for their good faith efforts to hear - if not resolve - problems and concerns. It is the hope of the Committees that all efforts to engage and address the concerns of stakeholders will continue.

Your Committees have heard representatives of the University of Hawai'i agree that past management of the Mauna Kea lands has been problematic. Your Committees believe that this acknowledgement is a significant step forward in resolving at least some of the concerns raised both in this measure and in the various planning efforts related to Mauna Kea lands.

Your Committees would term this measure a "work in progress". In addition to the amendments below, your Committees believe that the area of jurisdiction should be further defined as this measure moves forward. Your Committees concur that the following amendments begin to focus and clarify the authority that would be



granted to the Board of Regents, and ensure that the Board acts in consultation with other entities.

Your Committees have amended this measure accordingly, by:

- (1) Requiring the Board of Regents, in adopting rules, to:
 - (A) Strive for consistency with the provisions of the administrative rules of the Division of Forestry and Wildlife of the Department of Land and Natural Resources related to forest reserves and natural area reserves, as such designated lands currently exist on Mauna Kea lands; and
 - (B) Consult with the Office of Hawaiian Affairs to ensure that these rules shall not affect any right, customarily and traditionally exercised for subsistence, cultural, and religious purposes and possessed by ahupua'a tenants who are descendants of native Hawaiians who inhabited the Hawaiian Islands prior to 1778, subject to the right of the State to regulate such rights;
- (2) Requiring the Board of Regents to set and assess fines in consultation with the office of Hawaiian affairs;
- (3) Requiring the Board of Regents to report annually to the Legislature on the Mauna Kea lands activities, current and pending lease agreements and fees, the status of current and pending administrative rules, income and expenditures of the Mauna Kea lands special fund established in section 304A-F, Hawaii Revised Statutes, and any other issues that may impact the activities of the Mauna Kea lands;
- (4) Amending the purpose section to reflect these changes;
- (5) Amending the effective date to July 1, 2025, for the purpose of encouraging further discussion; and
- (6) Making technical amendments to correct drafting errors.

As affirmed by the records of votes of the members of your Committees on Higher Education and Water, Land, Agriculture, and Hawaiian Affairs that are attached to this report, your Committees



are in accord with the intent and purpose of S.B. No. 502, as amended herein, and recommend that it pass Second Reading in the form attached hereto as S.B. No. 502, S.D. 1, and be referred to the Committee on Ways and Means.

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



CLAYTON HEE, Chair




JILL TOKUDA, Chair



The Senate
 Twenty-Fifth Legislature
 State of Hawaii

Record of Votes
Committee on Higher Education
HRE

Bill / Resolution No.:*	Committee Referral:	Date:			
SB502	HRE/WTL, WAM	02-10-09			
<input type="checkbox"/> The committee is reconsidering its previous decision on this measure. If so, then the previous decision was to: _____					
The Recommendation is:					
<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	Aye	Aye (WR)	Nay	Excused	
TOKUDA, Jill N. (C)	✓				
SAKAMOTO, Norman (VC)	✓				
BAKER, Rosalyn H.	✓				
KOKUBUN, Russell S.	✓				
TAKAMINE, Dwight Y.	✓				
TANIGUCHI, Brian T.	✓				
SLOM, Sam			✓		
TOTAL	6	-	1	-	
Recommendation:					
<input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted					
Chair's or Designee's Signature:					
					
Distribution:					
Original File with Committee Report	Yellow Clerk's Office	Pink Drafting Agency	Goldenrod Committee File Copy		

*Only one measure per Record of Votes

The Senate
 Twenty-Fifth Legislature
 State of Hawaii

Record of Votes
Committee on Water, Land, Agriculture and Hawaiian Affairs
WTL

Bill / Resolution No.:* SB 502	Committee Referral: HRE/WTL, WAM	Date: 2/13/09		
<input type="checkbox"/> The committee is reconsidering its previous decision on this measure. If so, then the previous decision was to: _____				
The Recommendation is: <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	Aye	Aye (WR)	Nay	Excused
HEE, Clayton (C)	✓			
TOKUDA, Jill N. (VC)	✓			
BUNDA, Robert	✓			
FUKUNAGA, Carol	✓			
KOKUBUN, Russell S.	✓			
TAKAMINE, Dwight Y.				✓
HEMMINGS, Fred				✓
TOTAL	5	0	9	2
Recommendation: <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted				
Chair's or Designee's Signature:				
Distribution: Original Yellow Pink Goldenrod File with Committee Report Clerk's Office Drafting Agency Committee File Copy				

* Only one measure per Record of Votes