

MAR 07 2014

SENATE CONCURRENT RESOLUTION

URGING THE BOARD OF LAND AND NATURAL RESOURCES TO NOT REISSUE A DIRECT LEASE TO THE UNIVERSITY OF HAWAII FOR THE MAUNA KEA SCIENCE RESERVE, REQUESTING THE UNIVERSITY OF HAWAII BOARD OF REGENTS TO SUBMIT REPORTS AND SUMMARIES OF THE CURRENT LEASES TO THE BOARD OF LAND AND NATURAL RESOURCES, REQUESTING CERTAIN REQUIREMENTS FOR NEW OR RENEWAL LEASES FOR MAUNA KEA LANDS, AND REQUESTING THE GOVERNOR TO NOT ISSUE ANY EXECUTIVE ORDER REGARDING THE LEASE OF MAUNA KEA LANDS.

1 WHEREAS, the Board of Land and Natural Resources' meeting
2 agenda for November 8, 2013, included item D-5, which related to
3 the Mutual Cancellation of General Lease No. S-4191 to the
4 University of Hawaii for the Mauna Kea Science Reserve and
5 Issuance of New Direct Lease to the University of Hawaii for the
6 Mauna Kea Science Reserve Purposes; and
7

8 WHEREAS, General Lease No. S-4191, to the University of
9 Hawaii for Mauna Kea Science Reserve, is for a scientific
10 complex and scientific reserve, more specifically acting as a
11 buffer zone to prevent the intrusion of light and dust
12 interference to the scientific complex, and General Lease No. S-
13 5529, to the University of Hawaii for an access easement,
14 specifies that the premises must be used solely for permanent
15 mid-level facilities, a construction camp, an information
16 station as well as existing facilities' purposes; and
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18 WHEREAS, the current lease rent is gratis; and
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20 WHEREAS, the University of Hawaii has obtained the Board of
21 Land and Natural Resources' approval to issue ten subleases,
22 under which the rent charged was nominal at \$1 for the term of
23 the sublease; however, the University of Hawaii receives
24 observatory time at the sublessees' facilities in exchange for
25 the issuing of the sublease; and
26



S.C.R. NO. 144

1 WHEREAS, the Mauna Kea Comprehensive Plan identified the
2 need for legislative authority to allow the University of Hawaii
3 to adopt regulations to effectively manage and protect resources
4 on public lands leased on Mauna Kea; and

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6 WHEREAS, the Board of Land and Natural Resources has the
7 responsibility to manage and protect resources on public lands;
8 and

9
10 WHEREAS, all fees, including any fees from existing or
11 future subleases, collected by the lessee for the use of ceded
12 lands pursuant to Act 132, Session Laws of Hawaii 2009, shall be
13 deposited into the Mauna Kea lands management special fund under
14 section 304A-2170, Hawaii Revised Statutes, which shall consist
15 of:

- 16
17 (1) Appropriations by the legislature;
18
19 (2) All net rents from leases, licenses, and permits,
20 including fees and charges for the use of land and
21 facilities within the Mauna Kea lands;
22
23 (3) All monies collected for violations of chapter 304A,
24 Hawaii Revised Statutes, part IV, subpart O; and
25
26 (4) Interest earned or accrued on monies in the special
27 fund; and
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29 WHEREAS, astronomy development and activities under the
30 existing Mauna Kea master leases have diminished resources on
31 Mauna Kea for the past forty-five years; and

32
33 WHEREAS, the proposed new lease terms constitute a breach
34 of the State's high fiduciary duties as trustee of the ceded
35 lands trust; now, therefore,

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37 BE IT RESOLVED by the Senate of the Twenty-seventh
38 Legislature of the State of Hawaii, Regular Session of 2014, the
39 House of Representatives concurring, that the Board of Land and
40 Natural Resources is urged to not reissue a direct lease to the
41 University of Hawaii for the Mauna Kea Science Reserve; and
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S.C.R. NO. 144

1 BE IT FURTHER RESOLVED that the University of Hawaii Board
 2 of Regents is requested to submit reports and summaries of the
 3 current leases to the Board of Land and Natural Resources; and
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5 BE IT FURTHER RESOLVED that any new or renewal lease
 6 agreements contain a requirement that the lease be reviewed in
 7 the twenty-fifth and fifty-first year so that the lease rent can
 8 be reviewed and revised for any new or renewal lease thereafter;
 9 and
 10

11 BE IT FURTHER RESOLVED that new or renewal lease agreements
 12 contain a requirement that the University of Hawaii provide a
 13 summary of the terms of the subleases of the current and any new
 14 telescope facilities, including any benefits to the community
 15 derived from these subleases or telescopes; and
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17 BE IT FURTHER RESOLVED that the Governor is requested to
 18 not issue any Executive Order regarding the lease of Mauna Kea
 19 lands; and
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21 BE IT FURTHER RESOLVED that certified copies of this
 22 Concurrent Resolution be transmitted to the Governor,
 23 Chairperson of the Board of Land and Natural Resources,
 24 Chairperson of the University of Hawaii Board of Regents, Puko'a
 25 Council, Associated Students of the University of Hawaii, and
 26 Office of Hawaiian Affairs.
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OFFERED BY:











