

MAR 07 2014

---

---

## SENATE 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

17  
18           WHEREAS, the current lease rent is gratis; and

19  
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  
27           WHEREAS, the Mauna Kea Comprehensive Plan identified the  
28 need for legislative authority to allow the University of Hawaii



1 to adopt regulations to effectively manage and protect resources  
2 on public lands leased on Mauna Kea; and

3  
4 WHEREAS, the Board of Land and Natural Resources has the  
5 responsibility to manage and protect resources on public lands;  
6 and

7  
8 WHEREAS, all fees, including any fees from existing or  
9 future subleases, collected by the lessee for the use of ceded  
10 lands pursuant to Act 132, Session Laws of Hawaii 2009, shall be  
11 deposited into the Mauna Kea lands management special fund under  
12 section 304A-2170, Hawaii Revised Statutes, which shall consist  
13 of:

- 14
- 15 (1) Appropriations by the legislature;
- 16
- 17 (2) All net rents from leases, licenses, and permits,
- 18 including fees and charges for the use of land and
- 19 facilities within the Mauna Kea lands;
- 20
- 21 (3) All monies collected for violations of chapter 304A,
- 22 Hawaii Revised Statutes, part IV, subpart O; and
- 23
- 24 (4) Interest earned or accrued on monies in the special
- 25 fund; and
- 26

27 WHEREAS, astronomy development and activities under the  
28 existing Mauna Kea master leases have diminished resources on  
29 Mauna Kea for the past forty-five years; and

30  
31 WHEREAS, the proposed new lease terms constitute a breach  
32 of the State's high fiduciary duties as trustee of the ceded  
33 lands trust; now, therefore,

34  
35 BE IT RESOLVED by the Senate of the Twenty-seventh  
36 Legislature of the State of Hawaii, Regular Session of 2014,  
37 that the Board of Land and Natural Resources is urged to not  
38 reissue a direct lease to the University of Hawaii for the Mauna  
39 Kea Science Reserve; and

40  
41 BE IT FURTHER RESOLVED that the University of Hawaii Board  
42 of Regents is requested to submit reports and summaries of the  
43 current leases to the Board of Land and Natural Resources; and  
44



1 BE IT FURTHER RESOLVED that any new or renewal lease  
 2 agreements contain a requirement that the lease be reviewed in  
 3 the twenty-fifth and fifty-first year so that the lease rent can  
 4 be reviewed and revised for any new or renewal lease thereafter;  
 5 and

6  
 7 BE IT FURTHER RESOLVED that new or renewal lease agreements  
 8 contain a requirement that the University of Hawaii provide a  
 9 summary of the terms of the subleases of the current and any new  
 10 telescope facilities, including any benefits to the community  
 11 derived from these subleases or telescopes; and

12  
 13 BE IT FURTHER RESOLVED that the Governor is requested to  
 14 not issue any Executive Order regarding the lease of Mauna Kea  
 15 lands; and

16  
 17 BE IT FURTHER RESOLVED that certified copies of this  
 18 Resolution be transmitted to the Governor, Chairperson of the  
 19 Board of Land and Natural Resources, Chairperson of the  
 20 University of Hawaii Board of Regents, Puko'a Council, Associated  
 21 Students of the University of Hawaii, and Office of Hawaiian  
 22 Affairs.

23  
 24  
 25

OFFERED BY:   
  
  
  
