



# UNIVERSITY OF HAWAII SYSTEM

## Legislative Testimony

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Testimony Presented Before the  
House Committee on Judiciary  
February 13, 2018 at 2:00 p.m.

By

Stephanie Nagata, Director  
Office of Maunakea Management  
University of Hawai'i at Hilo

### HB 1767 HD1 – RELATED TO MOTOR VEHICLES

Chair Nishimoto, Vice Chair San Buenaventura, and members of the committee:

My name is Stephanie Nagata, Director of the Office of Maunakea Management. Thank you for this opportunity to testify on behalf of this bill.

The Office of Maunakea Management (OMKM) supports this bill. HB1767 HD1 provides OMKM with a tool for providing safer vehicle access to the higher elevations of Maunakea, and indirectly, a safer environment for those visiting and working on Maunakea.

The use of two-wheel drive vehicles poses not only safety concerns, but environmental, and maintenance issues. Drivers using vehicles engaged in low range, 4-wheel drive, have better handling and control of their vehicle on the steep, gravel road and reduce their need to use their breaks and avoid overheating and losing break control. The use of 4-wheel drive also lessens the wear-and-tear of the gravel portion of the road, thus reducing the frequency and costs associated with maintaining the road.

The vast improvements to the Daniel K. Inouye Highway, commonly known as Saddle Road, has been a godsend to the residents of Hawai'i Island. It is a much safer and easier road to drive and has reduced the commute time between Hilo and Kona, and vice versa. However, the improved Saddle Road has resulted in an increase in vehicular traffic to the mountain. Visitors renting cars are no longer prohibited from driving across the Saddle Road in their two-wheel drive vehicles.

Two-wheel drive vehicles are not designed for driving on steep, bedrock and gravel roads, or at high altitudes. It is not uncommon for the Maunakea rangers to come across two-wheel drive vehicles stopped alongside the road with their hoods up stalled from overheating or experiencing transmission problems. Rangers, in spite of instructing drivers to use low gear, continue to witness cars with their break lights on as they start and continue their descent down from the summit. Not only is there concern for the driver and their passengers, but there is concern about potential harm to others should a car lose the use of their breaks and hit bystanders or another vehicle.

Similar to the increase in vehicular traffic, so has the frequency of unpermitted tours to Maunakea. The University took over the responsibility of managing commercial tour operators after it was transferred by the Board of Land and Natural Resources. It is essential that commercial tour operators are regulated to ensure the safety of visitors and protection of the resources. Permitted operators must meet stringent conditions, including 1) giving their passengers background on the cultural and environmental significance of Maunakea; 2) carrying minimum liability insurance coverage; 3) indemnifying the State and University; 4) understanding the health hazards associated with visiting high elevations; 5) outfitting their vans with first aid equipment and oxygen; 6) requiring drivers' certification in administering first aid; and 7) conducting their own stargazing away from the crowded Visitor Information Station. Additionally, tour operators pay a per passenger fee that is applied directly to the management of the mountain, including helping to cover some of the operating expenses of the Visitor Information Station.

Non permitted operators add to the impact to the mountain and the addition of their passengers intensifies the already congested situation at the Visitor Information Station. Drivers may not be trained in rendering first aid or understand the health hazards associated with visiting high elevations. Additionally, unlike permitted tour operators, unpermitted operators are not obligated to indemnify OMKM, UH or the State, including but not limited to, suits, liabilities, losses, damages, costs, etc., arising, for example, from injury, cause of death, or damage to property losses. OMKM has sent letters to unpermitted operators citing the number of times they were observed conducting tours on UH's managed lands without a permit from the University, but they continue to run their tours. This bill will help to curtail unpermitted tour activities to the summit of Maunakea.

OMKM appreciates the support this bill provides by enhancing safer travel to Maunakea. For consistency with related HRS chapters, we would like to suggest some edits to the draft bill which is attached for your review. Mostly, these changes reflect language from HRS 271 Motor Carrier Law, and HRS 291, Statewide Traffic Code.

Thank you again for this opportunity to testify on HB 1767 HD1.

# HB 1767 SD1

## A BILL FOR AN ACT

Suggested changes/additions are in red

RELATED TO MOTOR CARRIERS

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. Chapter 46, Hawaii Revised Statutes, is amended by adding a new  
2 section to part I to be appropriately designated and to read as follows:

3 "§46- Enforcement of four-wheel drive vehicle use and ~~tour operator~~ motor  
4 carrier, as defined in HRS 271-4, requirement; Waipio valley. Each county may confer  
5 upon its employees or other individuals as it deems reasonable and necessary the power  
6 to issue fines for the enforcement of section 291C- (a) and (b) and HRS 271-8 "

7 SECTION 2. Chapter 291C, Hawaii Revised Statutes, is amended by adding a  
8 new section to part XII to be appropriately designated and to read as follows:

9 "§291C- Mauna Kea and Waipio valley access; required four-wheel drive  
10 vehicle use; tours. (a) No person shall drive any vehicle other than a low gear  
11 range, four-wheel drive vehicle in the following areas: the connecting roadway  
12 corridor between the Waipio valley lookout and the floor of Waipio valley; or the  
13 roadway above Halepohaku. ~~The use of any vehicle for traversing the following~~  
14 ~~roadways shall be prohibited:~~

1       ~~—— (1) — The connecting roadway corridor between the Waipio valley lookout and~~  
2 ~~the floor of Waipio valley; and~~

3       ~~—— (2) — The connecting roadway corridor between Hale Pohaku and the Mauna Kea~~  
4 ~~Science Reserve;~~

5 ~~provided that this subsection shall not apply to the use of a low gear four wheel drive~~  
6 ~~vehicle, emergency vehicles when responding to an emergency, law enforcement vehicles~~  
7 ~~when in the pursuit of an actual or suspected violator of the law, or upon leaving a~~  
8 ~~location.~~

9       Provided that any vehicle may be driven in these areas if:

10               ( 1 )   It is in the process of executing a legal turn, the lane change, or  
11               parking maneuver to exit the area;

12               ( 2 )   It is an authorized emergency vehicle performing the functions  
13               under section 291C-26;

14               ( 3 )   It is an official federal, state, or county vehicle in the  
15               performance of its actual duty;

16               ( 4 )   It is necessary to assist a stalled or broken vehicle;

17               ( 5 )   It is necessary to yield to an authorized emergency vehicle  
18               pursuant to section 291C-65; or

19               ( 6 )   It is vehicle engaged in or in support of research and maintenance

1 activities; or vehicles authorized by the Federal, State or County; or

2 (7) It is otherwise provided by law.

3 (b) No individual or business shall transport another individual for a fee on the  
4 following roadways absent a valid permit issued by the State to operate on these  
5 corridors:

6 (1) Certificate issued by the State to operate on the connecting roadway  
7 corridor between the Waipio valley lookout and the floor of Waipio valley; and

8 (2) Permit issued by the State to operate on the connecting roadway corridor  
9 between above Hale Pohaku and the Mauna Kea Science Reserve.

10 (c) Violation of this section (a) or (b) shall subject the driver or owner or  
11 leaseholder of the vehicle to a fine of up to \$250; violation of (b)(1) or (b)(2) shall  
12 subject the driver or owner or leaseholder of the vehicle to a fine up to \$1,000 for each  
13 offense and in the case of a continuing violation, not less than \$50 and not more than  
14 \$500 for each additional day during which the failure or refusal continues.

15 For purposes of this section, an all-wheel drive vehicle shall not be considered to  
16 be a low gear range, four-wheel drive vehicle."

17 SECTION 3. Chapter 304A, Hawaii Revised Statutes, is amended by adding a  
18 new section to part IV, subpart O, to be appropriately designated and to read as follows:

19 **"§304A- Enforcement of four-wheel drive vehicle use and tour operator**  
20 **motor carrier, as defined in HRS 271, requirement; Mauna Kea. The University of**  
21 **Hawaii may confer upon its employees or other individuals as it deems reasonable and**

1 necessary the power to issue fines for the enforcement of section 291C- (a) and (b) and  
2 (c) HRS 271-8."

3 SECTION 4. This Act does not affect rights and duties that matured, penalties  
4 that were incurred, and proceedings that were begun before its effective date.

5 SECTION 5. New statutory material is underscored.

6 SECTION 6. This Act shall take effect on July 1, 2018.

7

INTRODUCED BY: \_\_\_\_\_

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1

2 **Report Title:**

3 Waipio Valley; Mauna Kea; Roadway; Four-Wheel Drive Vehicles; Rental Motor Vehicles;  
4 Tour Operators

5

6 **Description:**

7 Prohibits access to Mauna Kea Science Reserve and Waipio valley, except through the use of a  
8 low-gear four-wheel drive vehicle. Requires tours of the Mauna Kea Science Reserve and  
9 Waipio valley to obtain a certification for Hawaii's professional tour guides. Authorizes the  
10 counties and UH to appointment individuals to enforce the restrictions.

11

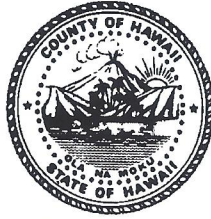
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14 *The summary description of legislation appearing on this page is for informational purposes only and is*  
15 *not legislation or evidence of legislative intent.*

16

**VALERIE T. POINDEXTER**  
*Council Chairwoman & Presiding Officer*  
*Council District 1*



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## HAWAI'I COUNTY COUNCIL

*County of Hawai'i*  
*Hawai'i County Building*  
*25 Aupuni Street, Suite 1402*  
*Hilo, Hawai'i 96720*

February 12, 2018

House Committee on Judiciary  
Scott Y. Nishimoto, Chair  
Joy A. San Buenaventura, Vice Chair

Email: [repnishimoto@Capitol.hawaii.gov](mailto:repnishimoto@Capitol.hawaii.gov)  
Email: [repsanbuenaventura@Capitol.hawaii.gov](mailto:repsanbuenaventura@Capitol.hawaii.gov)

Subject: Testimony Supporting HB1767, HD1 Related to Motor Vehicles  
Hearing: February 13, 2018, 2:00 p.m., Room 325

Dear Representatives:

On behalf of myself and the constituents of Council District 1 in Hāmākua, County of Hawai'i, I would like to express our support of HB1767, HD1, and submit a brief testimony as follows:

This bill prohibits access to Mauna Kea Science Reserve and Waipi'o Valley, except through the use of a low-gear four-wheel drive vehicle. It requires tours of the Mauna Kea Science Reserve and Waipi'o Valley to obtain a Certification for Hawai'i's Professional Tour Guides. HB1767, HD1 authorizes the counties and University of Hawai'i to appointment individuals to enforce the restrictions.

I introduced Resolution No. 485-18, which supported the original version of HB1767. The resolution passed Council at the February 7, 2018, Hawai'i County Council meeting. With that said, I support the amendments to HB1767, HD1 and I endorse any legislation that will increase the safety of visitors and residents of Waipi'o Valley.

I strongly support and urge the enactment of HB1767, HD1. Thank you for your time and consideration.

Sincerely,

A handwritten signature in cursive script that reads "Valerie T. Poindexter". The signature is written in dark ink and is positioned above a horizontal line.

Valerie T. Poindexter  
Hawai'i County Council Chairwoman  
District 1, Hāmākua





**HB1767 HD1**  
**RELATING TO MOTOR VEHICLES**  
House Committee on Judiciary

February 13, 2018

2:00 p.m.

Room 325

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The Office of Hawaiian Affairs (OHA) offers the following **COMMENTS** on HB1767 HD1, which seeks to mitigate the substantial environmental, cultural, and public safety impacts of visitor overuse and vehicular traffic on sites of immense significance to Native Hawaiians and Hawai'i as a whole.

**For years, concerns have been raised regarding the growing and largely unregulated number of visitors to Maunakea and Waipi'o Valley, sacred sites of immense significance to Native Hawaiians.** Unfortunately, guidebooks, social media, and online websites have increased exponentially the number of people who seek to visit these and other wahi pana and wahi kapu of significance to the Native Hawaiian community. These places, and the unique and fragile ecosystems, resources, and sites they contain, are now continuously impacted in various ways by what may be thousands upon thousands of often uninformed visitors every year, including the combustion-engine vehicles that they use to access such places. As visitor numbers to these sites continue to grow, so does the threat of continuous and sometimes irreparable damage to their environmental and cultural integrity, from both irresponsible and inappropriate activity as well as general human overuse.

Notably, the largely unregulated vehicular access to the Maunakea summit and Waipi'o Valley floor has also resulted in serious public safety concerns, with a history of car accidents due to "brake fade" and other causes on the roads leading to them, including most recently two car crashes – one fatal – on the Mauna Kea Access Road, less than one year ago.

Accordingly, OHA appreciates the prohibitions and regulations provided for in this measure, as one potential means of mitigating the substantial and growing impact of visitors and their vehicles on sites considered sacred by Native Hawaiians. OHA does understand that there is another measure being considered by Senate, SB3090, that also addresses vehicular access to the summit of Maunakea, which the Committee may also wish to review for consistency.

Mahalo nui for the opportunity to testify on this measure.

**HB-1767-HD-1**

Submitted on: 2/11/2018 1:22:22 PM

Testimony for JUD on 2/13/2018 2:00:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Paul Paiva	Office of Mauna Kea Management	Support	No

Comments:

Aloha,

My name is Paul "Scotty" Paiva, Chief Maunakea Ranger, I am submitting this written testimony in support of HB 1767. The Mauna Kea Access Road is very steep, curvy, and the lower half is unpaved causing dangerous conditions for two-wheel drive vehicles. Two-wheel drive vehicles don't have the low gearing needed for the driver to keep a safe speed without using excessive brakes. I have witnessed brake lights from two-wheel drive vehicles all the way down the mountain. This means they were using their brakes all the way down the mountain. I have also witnessed vehicles with glowing red hot brakes at the Visitor Information Station. We are very lucky for not having more accidents due to brake failure.

Two-wheel drive vehicles also frequently get stuck in the loose and soft cinder because they lack sufficient traction and gearing causing traffic jams and hazards.

Another problem caused by two-wheel drive vehicles is they cause a washboard effect on the gravel road going up the mountain. This puts extra burden on the road crew who needs to grade the road more often and increasing the cost for road maintenance.

These are a few of the safety and fiscal reasons I support HB 1767.

Mahalo,

Paul "Scotty" Paiva

Chief Maunakea Ranger

ppaiva@hawaii.edu



Testimony to the  
House Committee on Judiciary  
2:00 p.m., Wednesday, 13 February 2018  
State Capitol, Conference Room 423  
415 South Beretania Street  
Honolulu, HI 96813

Re: HB 1767 Relating to Waipio Valley, Mauna Kea Roadway, Four-Wheel Drive Vehicles,  
Rental Motor Vehicles, Tour Operators

Aloha Chair Nishimoto, Vice Chair San Buenaventura, and Members of the House Committee on Judiciary:

My name is Jacqui Hoover and I have the privilege of serving as Executive Director and Chief Operating Officer of the Hawaii Island Economic Development Board (HIED) and concurrently as President of Hawaii Leeward Planning Conference (HLPC). Please accept this testimony on behalf of HIEDB, a private, member-based 501(c)3 organization incorporated in 1984 to help strengthen and diversify Hawaii Island's economy.

HIEDB has long held that the people of Hawaii (residents and visitors alike) are the most important asset and as such, safety and well-being are critical.

The access road to the Mauna Kea Science Reserve is very steep and not safe for 2-wheel drive vehicles. The conditions for driving are challenging particularly on gravel portions of the access road and can be exacerbated by inclement weather (snow, ice, fog, and white out conditions) that can move in quickly. and in the past year alone, we have had serious vehicular accidents including fatalities on the road. Vehicular accidents put first responders at risk and further exacerbate driving conditions for others on the road.

Similarly, the road to Waipio Valley is steep, narrow and at times very muddy and slippery. I personally have been in situations when we have had to help push, winch or otherwise assist individuals who have slipped off the road and/or damaged a vehicle to the point of blocking the road and requiring assistance.

Recognizing life safety as a priority for kamaaina and visitors alike, this legislation acts to prevent vehicles from accessing Mauna Kea and/or Waipio Valley without four-wheel drive, low gear capabilities.

Mahalo for this opportunity to speak in support of HB1767.

Sincerely,

Jacqui L. Hoover  
Executive Director/COO

Hawaii Innovation Center at Hilo 117 Keawe St. #107, Hilo, HI 96720-2811  
Phone: (808) 935-2180 Fax: (808) 935-2187



HAWAII LEEWARD PLANNING CONFERENCE  
P.O. BOX 2159 • KAMUELA, HAWAII 96743-2159

Testimony to the  
House Committee on Judiciary  
2:00 p.m., Wednesday, 13 February 2018  
State Capitol, Conference Room 423  
415 South Beretania Street  
Honolulu, HI 96813

Re: HB 1767 Relating to Waipio Valley, Mauna Kea Roadway, Four-Wheel Drive Vehicles,  
Rental Motor Vehicles, Tour Operators

Aloha Chair Nishimoto, Vice Chair San Buenaventura, and Members of the House Committee on Judiciary:

My name is Jacqui Hoover and I have the privilege of serving as President of Hawaii Leeward Planning Conference (HLPC), a private, member-based 501(c)3 organization incorporated in 1974 by a group of forward-looking individuals who saw the need for an organization which would work with government and the community to promote sound planning decisions for Hawaii Island. I also serve concurrently as Executive Director and Chief Operating Officer of the Hawaii Island Economic Development Board (HIEDB).

Please accept this testimony on behalf of Hawaii Leeward Planning Conference (HLPC) whose 100+members and affiliates strongly support HB 1767 "Relating to Waipio Valley, Mauna Kea Roadway, Four-Wheel Drive Vehicles, Rental Motor Vehicles, Tour Operators".

The access road to the Mauna Kea Science Reserve is very steep and not safe for 2-wheel drive vehicles. The conditions for driving are challenging particularly on gravel portions of the access road and can be exacerbated by inclement weather (snow, ice, fog, and white out conditions) that can move in quickly. and in the past year alone, we have had serious vehicular accidents including fatalities on the road. Vehicular accidents put first responders at risk and further exacerbate driving conditions for others on the road.

Similarly, the road to Waipio Valley is steep, narrow and at times very muddy and slippery. I personally have been in situations when we have had to help push, winch or otherwise assist individuals who have slipped off the road and/or damaged a vehicle to the point of blocking the road and requiring assistance.

Recognizing life safety as a priority for kamaaina and visitors alike, this legislation acts to prevent vehicles from accessing Mauna Kea and/or Waipio Valley without four-wheel drive, low gear capabilities.

Mahalo for this opportunity to speak in support of HB1767.

Sincerely,

Jacqui L. Hoover  
President

**HB-1767-HD-1**

Submitted on: 2/12/2018 11:41:48 AM

Testimony for JUD on 2/13/2018 2:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
David Lonborg	Individual	Support	No

Comments:

Testimony Presented Before the

House Committee on Judiciary

Tuesday, February 13, at 2:00 p.m.

By

Robert McLaren and David Lonborg

**HB 1767 – RELATED TO MOTOR VEHICLES**

Chair Nishimoto, Vice Chair San Buenaventura, and members of the committee:

Thank you for this opportunity to testify in **support** of HB 1767, which would require the use of four-wheel drive vehicles with low-range gearing on the portion of the Mauna Kea access road between Hale Pohaku and the Mauna Kea Science Reserve (and in Waipio Valley). We strongly support this important safety measure.

We are, respectively, the Interim Director and Interim Associate Director of the University of Hawai'i Institute for Astronomy, testifying in our personal capacity. We regularly travel on the Mauna Kea access road between Hale Pohaku and the summit area, including the portion of the road covered by this bill, and are familiar with conditions there. It is a steep, narrow gravel road with numerous switchbacks. To descend the road safely, it is important to use four-wheel drive in low range and use engine braking to avoid overheating vehicle brakes. Two-wheel drive vehicles are much more likely to over-use their brakes, leading to brake failure and accidents. Four-wheel drive is also important when ascending the road because it reduces wheel spin, which damages the road surface, creates washboard conditions that further reduce vehicle traction, and requires more frequent grading.

The enforcement authority created by this bill is also important. Currently, use of four-wheel drive is strongly recommended through signage and personal warnings from

Rangers and Visitor Information Station staff, but many people disregard these warnings. Making the four-wheel drive requirement an enforceable matter of law will greatly improve compliance.

Please support HB 1767. It is badly needed for the safety of everyone accessing the upper portions of Mauna Kea.

**LATE**

**HB-1767-HD-1**

Submitted on: 2/12/2018 8:58:51 PM

Testimony for JUD on 2/13/2018 2:00:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Shana Logan	Individual	Oppose	No

Comments:

Aloha,

I do not support this bill, as it does not provide for cultural access in all forms.

Tour operators should not have access period. Some places should remain for the people of the island and not for tourists. Waipio Valley is being over-run by them, Maunakea is being desecrated by them. Daily. This cannot continue.

However, it is important to only allow certain types of vehicles to go on these roads for safety, but to allow for only tour operations who can afford to be certified and make money off our resources is not pono. This is discrimination against the native Hawaiian population and should not be allowed.

Mahalo.

**LATE**

Aloha Chair Nishimoto and Vice Chair Buenaventura,

Mahalo for considering this testimony. I strongly support passage of HB 1767 and respectfully ask for some minor changes:

Over the past 5-years or so, Saddle Road has been significantly improved. Rental car companies responded by removing restrictions that forbade rental cars on Saddle Road. These changes, combined with the ever increasing tourist population and the rise of social media, significantly increased the number of two-wheel drive passenger vehicles going to the summit of Maunakea.

However, the Maunakea Summit Access Road above Halepohaku is very steep and wasn't built for use by two-wheel drive passenger vehicles. As the General Manager of Maunakea Observatories Support Services for the past seven years, I have personally seen the problems this has caused:

Two-wheel and all-wheel drive passenger vehicles (including two-wheel drive pick-up trucks & vans) are almost all equipped with an automatic transmission that isn't geared to be used in very steep terrain. Without the low-range gearing, drivers are forced to ride their brakes while descending from the summit. All too often, the brakes overheat and partially or completely fail. Most times, the driver is able to turn into the mauka roadside and stop with some vehicle damage and minor injury. Occasionally, the results are catastrophic.

Visitor Information staff and Maunakea Rangers continually educate visitors about the dangers of driving a two-wheel drive car to the summit. However, many ignore this advice and drive their two-wheel drive passenger vehicles to the summit of Maunakea. The safety of kama'aina and visitors is our top priority and this legislation will prevent two-wheel drive passenger vehicles from being driven above Halepohaku.

Two-wheel drive passenger vehicles with low range are equipped for driving in steep terrain as the engine can be used to help brake the vehicle, allowing descent without overloading the brakes.

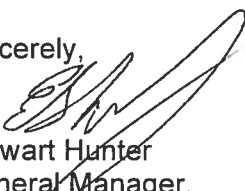
Driving a two-wheel drive passenger vehicle uphill also increases road maintenance costs and tends to create more dust than a four-wheel drive vehicle. Unlike a four-wheel drive, a two-wheel drive concentrates the drive force and has a tendency to lose traction and "chatter" or bounce slightly when going uphill on the gravel road. This causes washboarding (a series of ridges on the gravel road surface) and lots of dust.

There has also been a significant increase in un-permitted tour operators seen above Halepohaku. UH needs to have the ability to enforce the requirement that tour operators transporting individuals to the Maunakea Science Reserve have a valid permit.

I am also asking for some exceptions to the exclusion of two-wheel drive vehicles above Halepohaku:

Semi-tractors used for water hauling, delivery trucks, emergency response vehicles, crane vehicles, ...etc, are typically not "four-wheel drive". However, these vehicles almost always have a manual transmission or an automatic transmission with a low range. This allows them to use engine braking to safely descend the mauna. I would ask that the appropriate management authority be allowed to issue permits for the use of vehicles other than four-wheel drive, when there are no practical alternatives and the vehicle has low-range gearing to allow safe descent from Maunakea.

Sincerely,



Stewart Hunter  
General Manager,  
Maunakea Observatories Support Services  
shinter@ifh.hawaii.edu