HOUSE RESOLUTION

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.

WHEREAS, the Mauna Kea summit is home to unique cultural and historic resources that are designated national landmarks and carry protections under federal and state historic preservation laws; and

WHEREAS, the Mauna Kea aquifer is the major source of fresh water for the island of Hawaii and provides residents with drinking water; and

WHEREAS, the lands on the summit of Mauna Kea are public trust lands subject to the legal restrictions regarding land use and requirements to receive fair market lease rent from the use of these lands; and

WHEREAS, in 1961, the Mauna Kea summit, forest, and watershed lands were designated as conservation district lands; and

WHEREAS, in 1968, the Board of Land and Natural Resources leased approximately 13,320 acres of public trust lands to the University of Hawaii (UH) Institute for Astronomy (IFA) for a 65-year term at a nominal $1 per year; and

WHEREAS, since 1968, IFA has entered into multiple sub-lease and use agreements with private third parties for the development of telescope facilities on Mauna Kea's summit, allegedly at a nominal $1 per year in sub-lease rent without assessing, charging, or collecting fair-market value for these agreements; and
WHEREAS, IFA negotiated sub-leases with foreign entities, such as France and Canada, to construct the Canada-France-Hawaii Telescopes, as well as with public and private institutions including the California Institute of Technology, University of California Berkeley, California Association of Research Astronomy, and William M. Keck Foundation; and

WHEREAS, under agreements executed by IFA, each astronomy facility on Mauna Kea is required to provide approximately 36 to 54 observing nights per year; and

WHEREAS, Act 132, Session Laws of Hawaii 2009, authorized the UH Board of Regents 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; and

WHEREAS, this year, UH requested $2,180,000 in general funds to operate the Office of Mauna Kea Management; and

WHEREAS, contracts and use agreements held by foreign and out-of-state entities that benefit from the use of taxpayer support should be reviewed to ensure they contribute a fair and equitable share in ensuring the continued protection and maintenance of the Mauna Kea lands; now, therefore,

BE IT RESOLVED by the House of Representatives of the Twenty-fifth Legislature of the State of Hawaii, Regular Session of 2010, that the UH Board of Regents is requested 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; and

BE IT FURTHER RESOLVED that the report is requested to include:

(1) A list of the total viewing time provided to the UH and IFA, their employees, faculty, researchers, agents, and any person or entity during the 2009-2010 fiscal year;
(2) A determination of the net financial gain from astronomy-related activity on Mauna Kea received by UH during the 2009-2010 fiscal year;

(3) A list of all value, including viewing time, financial and in-kind exchanges, and any other benefits received by UH and IFA regarding each facility on Mauna Kea, during the 2009-2010 fiscal year;

(4) A summary of every contract, working or use agreement, and any other written understanding entered into by UH and IFA for the use of Mauna Kea, and that is currently in effect; and

(5) 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 including a process and considerations for the negotiation of future lease agreements;

and

BE IT FURTHER RESOLVED that certified copies of this Resolution be transmitted to the Chairperson of the University of Hawaii Board of Regents, President of the University of Hawaii, and Executive Director of the University of Hawaii Institute for Astronomy.