
SENATE RESOLUTION

REQUESTING, FOR REVIEW BY THE LEGISLATURE, AN ACCOUNTING AND REPORT CONCERNING ITEMS OF VALUE, INCLUDING VIEWING TIME ON MAUNA KEA TELESCOPES, PROVIDED TO THE UNIVERSITY OF HAWAII FOR THE LEASE OR USE OF FACILITIES ON PUBLIC TRUST LANDS ON THE SUMMIT OF MAUNA KEA.

1 WHEREAS, the lands on the summit of Mauna Kea are public
2 lands returned to Hawaii at Statehood (1959) under section 5(f)
3 of the Admission Act and subject to an express public trust; and
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5 WHEREAS, that trust imposes an express public trust duty
6 and legal restrictions on the State, including a requirement
7 that all revenues derived from the use of the public trust lands
8 must be deposited into the public lands trust fund; and
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10 WHEREAS, under section 171-17, Hawaii Revised Statutes, the
11 State's Board of Land and Natural Resources (BLNR) is required
12 to assess and charge fair-market lease rent for the use of
13 section 5(f) public trust lands (ceded lands); and
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15 WHEREAS, in 1961, the Mauna Kea summit, forestry, and
16 watershed lands were designated for protection and classified as
17 a state conservation district, pursuant to section 205-2, Hawaii
18 Revised Statutes; and
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20 WHEREAS, in 1968, the BLNR leased approximately 13,320
21 acres of public trust lands on the Mauna Kea summit and slopes
22 to the University of Hawaii (UH) for "a scientific complex,
23 including without limitation an observatory...." (General Lease
24 No. S-4191); and
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26 WHEREAS, the lease term was sixty-five years until 2033,
27 and the lease rent to UH was a nominal \$1 per year; and
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29 WHEREAS, the lease or setting aside of public trust lands
30 from BLNR to a state department, agency, or county is often made
31 for nominal or no rent because the entities are sub-units of the
32 State; and
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1 WHEREAS, since 1968, UH has entered into multiple sub-lease
2 and use agreements with private third parties for the
3 development of telescope facilities on Mauna Kea's summit; and
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5 WHEREAS, in exchange for the sub-lease and use agreements,
6 UH obtained the right to viewing time on each of the telescopes
7 and a formally-established sub-lease rent of a nominal amount;
8 now, therefore,
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10 BE IT RESOLVED by the Senate of the Twenty-fifth
11 Legislature of the State of Hawaii, Regular Session of 2010,
12 that the UH is requested to provide to the Legislature no later
13 than twenty days prior to the convening of the Regular Session
14 of 2011, a written accounting and report setting forth the
15 following information:
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- 17 (1) A list of the total viewing time provided to UH, its
18 employees, agents, faculty, researchers, affiliates,
19 graduate students, visiting scientists, and all those
20 operating under or in association with UH, without
21 exception, for each telescope or astronomical facility
22 on Mauna Kea by year since 2007;
23
- 24 (2) A determination of the financial value by night or by
25 hour of the viewing time for each facility for each
26 year since 2007 for all of the viewing time set forth
27 in paragraph (1);
28
- 29 (3) A list of all value (viewing time, financial, quid pro
30 quo exchanges, and any and every other benefit)
31 received by UH in relation to each facility on Mauna
32 Kea (or the sponsor) by year since 2007;
33
- 34 (4) A list and copy of every contract or working agreement
35 or any other agreement UH has entered into for the use
36 of any facility on Mauna Kea by year since 2007; and
37
- 38 (5) A plan of action that will ensure UH will develop a
39 self-sustaining model to meet its obligation to the
40 community while working to preserve and protect the
41 Mauna Kea lands including a process and considerations
42 for the negotiation of future lease agreements; and
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1 BE IT FURTHER RESOLVED that certified copies of this
2 Resolution be transmitted to the President of the University of
3 Hawaii, the Executive Director of the University of Hawaii
4 Institute for Astronomy, the Chair of the Board of Regents of
5 the University of Hawaii, the Chair of the Board of Land and
6 Natural Resources, and the Director of Commerce and Consumer
7 Affairs.

