

Honolulu, Hawaii

APR 06 2018

RE: H.B. No. 1985
H.D. 1
S.D. 1

Honorable Ronald D. Kouchi
President of the Senate
Twenty-Ninth State Legislature
Regular Session of 2018
State of Hawaii

Sir:

Your Committees on Higher Education, Water and Land, and Ways and Means, to which was referred H.B. No. 1985, H.D. 1, entitled:

"A BILL FOR AN ACT RELATING TO LAND USE,"

beg leave to report as follows:

The purpose and intent of this measure is to require the Board of Land and Natural Resources to provide an annual report to the Legislature with information regarding the value, current zoning, and status of resource value public lands held by the Department of Natural Land and Resources.

Prior to the hearing on this measure, your Committees posted and made available for public review a proposed S.D. 1, which, among other things:

- (1) Establishes the Mauna Kea Management Authority and membership of the Authority;
- (2) Establishes and specifies duties of the Mauna Kea Candidate Advisory Council;
- (3) Limits the number of telescopes that may be authorized on Mauna Kea;



- (4) Authorizes the renegotiation of leases, subleases, easements, permits, and licenses pertaining to Mauna Kea;
- (5) Requires that revenue derived from activities on Mauna Kea be shared with the Office of Hawaiian Affairs;
- (6) Excludes Mauna Kea lands from the definition of "public lands";
- (7) Provides for free access to Mauna Kea for traditional cultural purposes;
- (8) Establishes police powers and provides for enforcement of laws on land under the jurisdiction of the Mauna Kea Management Authority; and
- (9) Appropriates funds for the Mauna Kea Management Authority.

Your Committees received testimony in support of the proposed S.D. 1 from the Office of Hawaiian Affairs; Hawaii Regional Council of Carpenters; Ho'omanopono Political Action Committee; Ho'omana Pono, LLC; O'ahu County Committee on Legislative Priorities of the Democratic Party of Hawai'i; and numerous individuals. Your Committees received testimony in opposition to the proposed S.D. 1 from the University of Hawai'i System; Department of Land and Natural Resources; Office of the Mayor of the County of Hawai'i; Maunakea Observatories; BIFA; Sierra Club, Moku Loa Group; League of Women Voters Hawaii; Kona-Kohala Chamber of Commerce; PUEO; Ohana Ho'opakele; and numerous individuals. Your Committees received comments on the proposed S.D. 1 from the Department of the Attorney General, Department of Budget and Finance, and one individual.

Your Committees find that Mauna Kea is the most significant cultural and astronomical site in the world. The summit region of Mauna Kea is a spiritual and special place of significance that is home to cultural landscapes, fragile alpine habitats, historical and archaeological treasures, as well as endemic species found nowhere else on the planet. Since 1998, four audits by the State Auditor have been critical of the management, stewardship, and protection of Mauna Kea. Although significant changes have



occurred on Mauna Kea since the 1998 audit, negative experiences over the past fifty years have eroded public confidence and demonstrated the critical need for fresh leadership centered on a new organizational structure, management system, and procedures.

Your Committees further find that there is a clear need for one entity to serve as a single focal point of management, responsibility, communication, and enforcement regarding Mauna Kea. This new entity will increase the accountability of all tenants on Mauna Kea and will ensure that each tenant is aware of its obligations and responsibilities. This entity will also provide the necessary stewardship for the sustainable use of Mauna Kea and the proper generation of revenue from that use. This entity will be headquartered on the island of Hawai'i and will be recognized by the general public and the State as the single point of contact for Mauna Kea's summit region.

Your Committees note that S.B. No. 3090, S.D. 2, Regular Session of 2018, served as the original conduit for the establishment of the Mauna Kea Management Authority. After several statewide community presentations where members of the public were able to voice their concerns, an effort was made to ensure that the latest iteration of this proposal addressed those concerns. Therefore, your Committees have amended this measure by adopting the proposed S.D. 1 and further amending the measure by:

- (1) Including the definition of "Mauna Kea lands" within the definition of "Mauna Kea" and further clarifying lands to be included in the definition of "Mauna Kea";
- (2) Clarifying the chief legal officer and general counsel's powers to include responsibility for the management of leases entered into by the Mauna Kea Management Authority;
- (3) Deleting all references to the ability of the Authority to sell Mauna Kea lands;
- (4) Expanding the membership of the Mauna Kea Candidate Advisory Council to include the Board of Land and Natural Resources Hawai'i island member;



- (5) Clarifying that the Chair of the Sierra Club, Moku Loa Group, rather than the President of the Sierra Club, Hawaii Island Chapter, be appointed to the Mauna Kea Candidate Advisory Council;
- (6) Deleting language that would have required the Department of Agriculture to establish reasonable criteria for the selection of a lessee where the intended use of the land is agriculture;
- (7) Inserting language that requires that an unspecified dollar amount from all receipts collected by the Mauna Kea Management Authority or University of Hawaii as a result of lease rent, fees, penalties, commercial activities, technology transfers, monetization of intellectual properties or discoveries, and other revenue sources, pertaining to the use of Mauna Kea lands shall be allocated to the Authority's community relations division for education, grants, and community benefits for native Hawaiian children and children that come primarily from underserved, rural, and financially challenged communities on Hawaii island;
- (8) Inserting language that requires that an unspecified percentage of all receipts collected by the Mauna Kea Management Authority or University of Hawaii as a result of lease rent, fees, penalties, commercial activities, technology transfers, monetization of intellectual properties or discoveries, and other revenue sources, pertaining to the use of Mauna Kea lands shall go to the Department of Hawaiian Home Lands; and
- (9) Making technical, nonsubstantive amendments for the purposes of clarity and consistency.

As affirmed by the records of votes of the members of your Committees on Higher Education, Water and Land, and Ways and Means that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 1985, H.D. 1, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 1985, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.



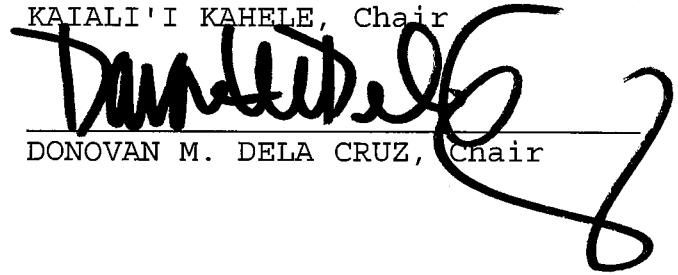
Respectfully submitted on
behalf of the members of the
Committees on Higher Education,
Water and Land, and Ways and
Means,



KARL RHOADS, Chair



KAIALI'I KAHELE, Chair



DONOVAN M. DELA CRUZ, Chair



The Senate
 Twenty-Ninth Legislature
 State of Hawai'i


Record of Votes
Committee on Higher Education
HRE

Bill / Resolution No.:*	Committee Referral:	Date:		
<i>HR 1985 HD 1</i>	<i>HRE/WTL/WAM</i>	<i>4/5/18</i>		
<input type="checkbox"/> The Committee is reconsidering its previous decision on this measure. If so, then the previous decision was to: _____				
The Recommendation is: <input type="checkbox"/> Pass, unamended 2312 <input checked="" type="checkbox"/> Pass, with amendments 2311 <input type="checkbox"/> Hold 2310 <input type="checkbox"/> Recommit 2313				
Members	Aye	Aye (WR)	Nay	Excused
KAHELE, Kaiali'i (C)	✓			
KIM, Donna Mercado (VC)				✓
CHANG, Stanley				✓
KEITH-AGARAN, Gilbert S.C.	✓			
KIDANI, Michelle N.	✓			
TOTAL	<i>3</i>			<i>2</i>
Recommendation: <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted				
Chair's or Designee's Signature: <div style="text-align:center; font-family: cursive; font-size: 1.2em;">Michelle N. Kidani</div>				
Distribution: Original Yellow Pink Goldenrod File with Committee Report Clerk's Office Drafting Agency Committee File Copy				

*Only one measure per Record of Votes

The Senate
Twenty-Ninth Legislature
State of Hawai'i

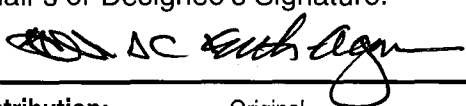
Record of Votes
Committee on Water and Land
WTL

Bill / Resolution No.:* HB 1985, HD 1	Committee Referral: HRE/WTL/WAM	Date: APRIL 5, 2018		
<input type="checkbox"/> The Committee is reconsidering its previous decision on this measure. If so, then the previous decision was to: _____				
The Recommendation is: <input type="checkbox"/> Pass, unamended 2312 <input checked="" type="checkbox"/> Pass, with amendments 2311 <input type="checkbox"/> Hold 2310 <input type="checkbox"/> Recommit 2313				
Members	Aye	Aye (WR)	Nay	Excused
RHOADS, Karl (C)	✓			
GABBARD, Mike (VC)		✓		
INOUYE, Lorraine R.				✓
RIVIERE, Gil		✓		
THIELEN, Laura H.		✓		
TOTAL	1	3	—	1
Recommendation: <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted				
Chair's or Designee's Signature: 				
Distribution: Original Yellow Pink Goldenrod File with Committee Report Clerk's Office Drafting Agency Committee File Copy				

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The Senate
 Twenty-Ninth Legislature
 State of Hawai'i

Record of Votes
Committee on Ways and Means
WAM

Bill / Resolution No.:* HB 1985 HDI	Committee Referral: HRE/WTL/WAM	Date: 4/5/18		
<input type="checkbox"/> The Committee is reconsidering its previous decision on this measure. If so, then the previous decision was to: _____				
The Recommendation is: <input type="checkbox"/> Pass, unamended 2312 <input checked="" type="checkbox"/> Pass, with amendments 2311 <input type="checkbox"/> Hold 2310 <input type="checkbox"/> Recommit 2313				
Members	Aye	Aye (WR)	Nay	Excused
DELA CRUZ, Donovan M. (C)	X			
KEITH-AGARAN, Gilbert S.C. (VC)	X			
ENGLISH, J. Kalani	X			
GALUTERIA, Brickwood				X
HARIMOTO, Breene				X
INOUYE, Lorraine R.				X
KAHELE, Kaiali'i	X			
KIDANI, Michelle N.	X			
RIVIERE, Gil		X		
SHIMABUKURO, Maile S.L.		X		
WAKAI, Glenn	X			
TOTAL	6	2		3
Recommendation: <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted				
Chair's or Designee's Signature: 				
Distribution: Original Yellow Pink Goldenrod File with Committee Report Clerk's Office Drafting Agency Committee File Copy				

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