

MAR 10 2010

SENATE CONCURRENT RESOLUTION

REQUESTING THAT THE UNIVERSITY OF HAWAII INSTITUTE FOR ASTRONOMY
PROVIDE A WRITTEN REPORT OF VIEWING TIME IN LIEU OF LEASE
RENT AND FOR THE USE OF PUBLIC TRUST LANDS ON THE SUMMIT OF
MAUNA KEA.

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

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

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

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

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18 WHEREAS, in 1968, the Board of Land and Natural Resources
19 leased approximately 13,320 acres of public trust lands to the
20 University of Hawaii Institute for Astronomy for a sixty-five
21 year term at a nominal \$1 per year; and

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23 WHEREAS, since 1968, the University of Hawaii Institute for
24 Astronomy entered into multiple sub-lease and use agreements
25 with private third parties for the development of telescope
26 facilities on Mauna Kea's summit, allegedly at a nominal \$1 per
27 year in sub-lease rent without assessing, charging, or
28 collecting fair-market value for these agreements; and
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1 WHEREAS, the University of Hawaii Institute for Astronomy
2 negotiated sub-leases with foreign entities, such as France and
3 Canada, to construct the Canada-France-Hawaii Telescopes, as
4 well as with public and private institutions including the
5 California Institute of Technology, the University of California
6 Berkeley, the California Association of Research Astronomy, and
7 the William M. Keck Foundation; and
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9 WHEREAS, the Board of Land and Natural Resources and the
10 University of Hawaii Institute for Astronomy required these
11 entities to pay \$1 per year in exchange for ten to twenty per
12 cent of observation viewing time on the telescopes; and
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14 WHEREAS, observation viewing time is valuable to the
15 astronomy community, and some entities pay extraordinary amounts
16 for each observation viewing night to use Mauna Kea telescope
17 facilities; and
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19 WHEREAS, in 2009, Yale University agreed to pay \$12,000,000
20 to the William M. Keck Foundation for fifteen observing nights
21 over a ten year period, which breaks down to \$80,000 per
22 observation viewing night; and
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24 WHEREAS, under agreements executed by the University of
25 Hawaii Institute for Astronomy, each astronomy facility on Mauna
26 Kea is required to provide approximately thirty-six to fifty-
27 four observing nights per year; and
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29 WHEREAS, the University of Hawaii Institute for Astronomy
30 claims to hold numerous patents on technologies developed and
31 tested at the facilities on Mauna Kea and Haleakala; and
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33 WHEREAS, these patents are often leased to the private high
34 tech companies for substantial monetary value; and
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36 WHEREAS, there has been no public accounting of the patent
37 or lease contracts held by foreign and out-of-state entities;
38 and
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40 WHEREAS, contracts and use agreements held by foreign and
41 out-of-state entities that benefit from the use of taxpayer
42 support should be reviewed to prevent waste or mismanagement of
43 public funds; now, therefore,
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1 BE IT RESOLVED by the Senate of the Twenty-fifth
2 Legislature of the State of Hawaii, Regular Session of 2010, the
3 House of Representatives concurring, that the University of
4 Hawaii Institute for Astronomy is requested to submit a written
5 accounting and report to the Auditor and the Legislature no
6 later than fourteen calendar days after the effective date of
7 this concurrent resolution; and
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9 BE IT FURTHER RESOLVED that the Legislature requests that
10 the report include:
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- 12 (1) A list of the total viewing time provided to the
13 University of Hawaii and the University of Hawaii
14 Institute for Astronomy, their employees, faculty,
15 researchers, agents and any person or entity operating
16 since 1968;
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- 18 (2) A determination of the financial value of the viewing
19 time for each facility since 1968;
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- 21 (3) A list of all value including viewing time, financial
22 and in-kind exchanges, and any other benefits received
23 by the University of Hawaii and the University of
24 Hawaii Institute for Astronomy regarding each facility
25 on Mauna Kea since 1968; and
26
- 27 (4) A copy of every contract, working or use agreement,
28 and any other writing entered into by the University
29 of Hawaii and the University of Hawaii Institute for
30 Astronomy for the use of Mauna Kea since 1968; and
31

32 BE IT FURTHER RESOLVED that the Auditor is requested to
33 conduct a review of the University of Hawaii Institute for
34 Astronomy's report and submit any findings and recommendations
35 to the Legislature no later than thirty days following the
36 receipt of the report; and
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38 BE IT FURTHER RESOLVED that certified copies of this
39 Concurrent Resolution be transmitted to the State Auditor, the
40 Chairperson of the Board of Land and Natural Resources, the



S.C.R. NO. 184

1 President of the University of Hawaii, and the Executive
2 Director of the University of Hawaii Institute for Astronomy.
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OFFERED BY:

Brunell. Kohl B/R

