



SENATE COMMITTEE ON WAYS AND MEANS
The Honorable Donovan M. Dela Cruz, Chair
The Honorable Gilbert S.C. Keith-Agaran, Vice Chair

H.B. NO. 2024, H.D., 1, S.D. 1 RELATING TO MAUNA KEA

Hearing: Tuesday, April 5, 2022, 10:30 a.m.

The Office of the Auditor has strong concerns about H.B. No. 2024, H.D. 1, S.D. 1, specifically Section 9 of the bill that provides “if the auditor finds . . . that the Mauna Kea stewardship and oversight authority is unfit to continue to serve in its stewardship and oversight role,” management of Mauna Kea shall revert back to the University of Hawai‘i board of regents and president. We also have concerns about the performance and financial audit required in § -16 of Section 2.

While we believe there is tremendous value in assessing an agency’s performance, audit objectives, (i.e., questions the audit is intended to answer), must be narrowly defined given our limited resources and other responsibilities. The mandate that we audit “the Mauna Kea stewardship and oversight authority” is extremely and overly broad. We strongly recommend that, if the audit requirement remains part of the bill, the committee identify the specific functions or activities that the committee wants assessed. Without specific direction, we will develop audit objectives based on a risk-based planning process; however, the authority’s activities that are the focus of the audit may not be those of interest to the Legislature and may not address the authority’s “fitness” to manage Mauna Kea.

We suggest that it may be more meaningful to mandate or request an audit via bill or concurrent resolution after the authority has been established and developed procedures and internal controls to guide its work. At that time, the Legislature likely can identify specific activities of the authority that it may want us to audit. We could then assess the authority’s actual performance of those activities against those policies, procedures, and internal controls.

We have greater concerns about Section 9 of the bill that will revert the management of Mauna Kea to the University of Hawai‘i if our audit finds the authority is “unfit to continue to serve in its stewardship and oversight role.” The bill does not include criteria or other definitions as to what constitutes “unfit to continue to serve in its stewardship and oversight role.” Without clear and specific criteria against which we can assess the authority’s management, we will be unable to make any assessment as to whether it is “unfit to continue to serve in its stewardship and oversight role.” If Section 9 remains in the bill, we strongly request that the committee articulate clear and specific criteria as to what constitutes “unfit to continue to serve in its stewardship and oversight role.”

Thank you for considering our testimony related to H.B. No. 2024, H.D. 1, S.D. 1.



UNIVERSITY OF HAWAII SYSTEM

Legislative Testimony

Written Testimony Submitted to the
Senate Committee on Ways and Means
Tuesday, April 5, 2022 at 10:30 a.m.

By

Greg Chun, Executive Director
Center for Maunakea Stewardship
University of Hawai'i at Hilo

and

David Lassner, President
University of Hawai'i

HB 2024 HD1 SD1 – RELATING TO MAUNA KEA

Chair Dela Cruz, Vice Chair Keith-Agaran, and members of the committee:

Mahalo for the opportunity to comment on HB 2024 HD1 SD1 (“SD1”) relating to Mauna Kea, although we cannot support passage in its current form.

First, the University of Hawai'i (“UH”) reiterates our support for the cultural foundations articulated in the Maunakea Working Group’s (“MKWG”) report to the Legislature which formed the basis of HB 2024 HD1 (“HD1”). The Kumu Kānāwai represent timeless principles of nature’s cycles and are consistent with the 2009 *Mauna Kea Comprehensive Management Plan* (“CMP”) that was adopted by the Board of Land and Natural Resources (“BLNR”) which is implemented by UH. UH looks forward to integrating these principles into our stewardship of Maunakea through the update to our Comprehensive Management Plan that is nearly complete.

UH also acknowledges the attempt SD1 makes to strike a more balanced proposal than HD1 for the future governance of these special lands. For example, representation on the proposed governing board strikes a fair mix of cultural, community, and agency voices all of whom have important perspectives on the use and stewardship of the mauna. And, we appreciate SD1’s support of the State of Hawaii’s academic excellence in astronomy through UH by requiring that agreements with non-UH observatories include dedicated UH observing time.

However, UH respectfully opposes SD1 for a number of operational, programmatic, and policy issues and on the basis that it is a misdirected attempt to resolve the deeply held differences within our community regarding astronomy on Maunakea by changing the governance structure, without any balancing of the cost of doing so at this point in time. Previous UH testimony submitted in response to hearings before the House Joint WAL/JHA/FIN Committee on February 19, 2022, and before the Senate HRE Committee on March 22, 2022, detail our concerns with earlier drafts. That testimony is

attached herein as Attachment A.1. SD1 highlights some of our previous concerns, and raises some new ones, which are summarized below.

The timeline for implementation effectively ensures an end to astronomy on Maunakea.

The process that UH is currently undertaking to secure a new land authorization and negotiate terms of new subleases with the reduced number of observatories that will continue is nominally expected to be completed by 2026. Regardless of specific details in SD1 (e.g., Board composition, funding, etc.), the timeline for establishing the Mauna Kea Stewardship Oversight Authority (“MKSOA”) will cause, under optimistic assumptions, **at least a three-year delay** in securing those same agreements which are critical to sustain astronomy beyond the duration of the current general lease (2033).

Figure 1 provides a comparative depiction of relevant timelines. Of note, decommissioning experiences with the Caltech Submillimeter Observatory and the Hoku Kea telescope to date indicate that the entire process requires about six years to complete which is generally consistent with the timeline in the 2010 Decommissioning Plan. Since UH’s current general lease terminates in 2033, the other observatories would need to commence decommissioning no later than 2027. This is several years before implementation of SD1 will yield the necessary new general lease and associated subleases. Importantly, not only must all observatories be removed by the end of 2033 under existing agreements, but key infrastructure (e.g., underground utilities) and site restoration work must be done by then as well – an enormous undertaking in a time constrained situation. The timeline in Figure 1 incorporates several assumptions including the time needed to complete contested cases and subsequent litigation (assumed to be 3 years total – comparable to the TMT experience), reaching closure on a multitude of sublease negotiations with international funders of Maunakea astronomy, and numerous complex steps in the 3 year MKSOA transition period being successful. ***In general, schedule uncertainties and poor or missing assumptions will tend to push the implementation timeline to longer durations than what is shown in Figure 1, while the 2033 end of the current 65-year general lease is fixed.***

Given the length of time required to obtain necessary approvals for a new land authorization, the governments and universities that support astronomy on Maunakea will be hard pressed to continue doing so without assurances of the State’s support of astronomy on Maunakea and a clear path to the timely granting of use and control of property upon which existing astronomy facilities are located. Aside from the costs associated with starting a new governmental entity, and prematurely terminating existing contractual and property interests held by the observatories and UH, the ultimate toll that this Bill will impose, if passed, will be to threaten one of our State’s most successful global achievements, the future of 21st century astronomy, and the

priceless opportunity for generations here in Hawai'i to be part of the legacy of Hawai'i astronomy.

The costs of implementation and operations have not been adequately assessed.

SD1 appropriates \$12M in FY 2022-23 for start-up costs to establish MKSOA, as well as an unspecified amount to hire an executive assistant to support the new authority. It is not clear what start-up costs will be covered or how ongoing operational costs, which are separate from start-up costs, are to be paid for. Consider, for example, that UH is the permittee of all conservation district use permits for astronomy facilities on Maunakea, under which BLNR requires that UH implement the CMP. The CMP requires UH to coordinate the implementation of 103 management actions related to resource management, education, outreach, and culturally appropriate stewardship on lands managed by UH on Maunakea.

The \$12M appropriation approximates UH's current annual costs to support community education and outreach, stewardship, and operations on Maunakea. It does not include the cost associated with operating a world-class astronomy program. Our operational costs are covered by a combination of state, tuition, extramural, Maunakea observatory, lease, and commercial fee funds. Actual start-up costs for MKSOA would need to include more than just the hiring of administrative, enforcement and fiscal support staff for MKSOA. Other readily apparent costs include the costs of developing new planning documents and completing the environmental reviews required to secure a new land authorization and necessary permits for MKSOA, the costs associated with negotiating a new land authorization and subleases as well as the transfer or assignment of current interests from UH (e.g., general lease, subleases permits, and assets), the cost of developing administrative rules, and the cost to defend likely legal challenges associated with developing new leases, permits, rules, or other necessary agreements.

The requirement that the MKSOA be self-sustaining after the first year following the transition period implies substantial lease rent income through renegotiated subleases with the observatories. As described above, this would likely not occur before 2029 which means ongoing operational costs need to be funded.

Further, limiting MKSOA expenditures to five percent of the annual budget, as called for by SD1, is unrealistic. The Center for Maunakea Stewardship's ("CMS") budget is devoted primarily to support administrative functions, including the implementation of the master plan, CMP, compliance monitoring, and the administrative rules. The public, UH, environmental and cultural stewards, observatory funding entities, and others who may be expected to sustain operations deserve to understand how public and private funds are to be used to cover these costs.

UH stewardship of Maunakea.

SD1 and HD1 are founded on the narrative that UH is mismanaging Maunakea. Respectfully, this narrative is no longer accurate. Criticisms expressed in the 1998 State audit concerning UH's management have long been addressed by subsequent State audits and the recent *Independent Evaluation* procured by the Department of Land and Natural Resources ("DLNR"). Yet this reality continues to be ignored. There have been 22 solid years of innumerable continuous improvements in management, research, and outreach as well as millions of dollars of investment by UH that have corrected those criticisms. The 2020 DLNR Independent Evaluation of UH's management of Maunakea stated that the UH-managed lands on Maunakea are ***among the best managed state lands in Hawai'i, and that negative perceptions of UH's management are associated with negative views on telescope development.*** The real issue is the deeply held differences regarding state policy that has supported astronomy on Maunakea for more than five decades, not UH's land management. It is certainly the prerogative of state government to revoke the state's support for astronomy, but leaving it to a new governing authority to effectively form state policy on astronomy is a poor substitute for a clear declaration from the state government, one way or another.

Moving forward: Collaborative governance alternatives.

The concept of governance alternatives is not new to UH. In 2017 the Governor, OHA, DLNR, and UH spent considerable effort in developing a collaborative governance model and agreement only to have that effort stalled due to ongoing litigation. When then-Senator Kai Kahele introduced legislation in 2018 regarding a new Maunakea management authority, UH engaged in discussions with the legislature and other key stakeholders about that proposed framework. Most recently, OHA in their testimony before the Senate HRE Committee on March 22, 2022 suggested that more time be allowed for exploring the development of a "collaborative stewardship model" that seems to have similarities with UH recommendations as identified below. And currently, UH and DLNR are already in the process of withdrawing 10,000 acres from UH's current general lease to be returned to DLNR.

A discussion of alternative governance for Maunakea should begin with a review of the shared vision and objectives for a new structure. In our experience working with multiple stakeholders for the last 22 years, the evaluation of governance options for Maunakea should begin with the following principles:

- Native Hawaiians who inhabited these islands prior to 1778 brought with them, and developed over time, a rich and valuable understanding of the natural world. That knowledge is timeless and can inform today's resource management programs and practices.

- Native Hawaiian and community perspectives need to be represented in planning and decision making concerning Maunakea. The land on Maunakea managed by UH are both public trust and ceded lands that are to be managed for the benefit of the community, including native Hawaiians.
- Hawai'i needs to diversify its economy and Maunakea astronomy catalyzes education, research, and innovation at scale, in turn forming a vibrant University astronomy research, education, and technology development program and associated endeavors, such as world class astronomy facilities.
- These principles need to be balanced.

If the Legislature wishes to affirm a positive, thriving, integrated future for astronomy in Hawai'i consistent with UH's "commitment to the collaborative stewardship of Maunakea's cultural, natural, educational and scientific resources, and ... to move forward to collaboratively build a global model of harmonious and inspirational stewardship that is befitting of Maunakea" (Board of Regents Resolution, August 24, 2017) then SD1 should be amended to incorporate the recommendations in our March 22, 2022 testimony before the Senate HRE Committee. These included the following:

- Commit in statute to expand, broaden, and diversify the range of community voices in planning and decision making as seems to be the intent of HB 2024 HD1 and direct the creation of an interagency management authority comprised of UH, OHA, DLNR, and DHHL to develop a collaborative governance model that includes community voices on its oversight board. The entity could be administratively attached to DLNR, and its role would be to establish an integrated management program with shared goals and resources for the collaborative stewardship of public lands on Maunakea with each entity playing a major role consistent with its respective mission. These common objectives would incorporate many of the MKWG's recommendations along with DHHL's 'Āina Mauna plan for Maunakea, UH's Master Plan for astronomy, DLNR's approved CMP and other relevant DLNR management plans, and the principles of the Kumu Kānāwai to promote the kind of holistic and integrated management approach for the mauna presented in the MKWG report. Such an approach would ensure that Maunakea lands would continue to be protected under the various administrative rules and management programs in place without having to recreate a new management regime and government entity while giving time for trust, communication, and collaboration to build.
- Commit in statute to the cultural underpinnings of the MKWG report and HB 2024 HD1 and direct the interagency management authority to integrate these principles into a joint stewardship program. These are established principles of nature's cycles that should inform and shape stewardship practice, and UH looks forward to integrating their application in our management plans and actions.

- Continue the State’s commitment to the future of astronomy on Maunakea by codifying that commitment in statute, with UH holding an appropriate land authorization only for the astronomy precinct within which the existing astronomy sites are located, Hale Pōhaku, and the road connecting these areas so we can continue to improve our stewardship, as we have committed to do. Approximately 10,000 acres currently under UH’s general lease would return to DLNR management.
- Direct the interagency management authority to develop a community-based stewardship program for the lands withdrawn from UH’s current general lease that provides educational, stewardship, and economic opportunities for native Hawaiians and the community.

Again, these ideas are not new, and UH has been discussing, analyzing, and pursuing alternative governance with stakeholders for years.

While UH opposes SD1 in its current form, UH would be glad to assist in crafting a bill that would help achieve a vision of a thriving, respectful, and balanced future where astronomy works hand in hand with cultural, historic and environmental stewardship for the benefit of the mauna, community, and humanity. This approach could also address some of the legal issues inherent in the current draft such as avoiding impacts to existing contractual obligations that do not terminate until 2033 under the current subleases and other issues UH identified in our testimony on HB 2024 and HD1.

Experience suggests that when three of the primary agencies who would be involved in a collaborative stewardship model have expressed openness to the concept, then the prudent course of action would be to explore that option further.

Polynesian explorers employed keen observation and generations of accumulated knowledge, including astronomical, to traverse the Pacific far-and-wide bringing humans to these islands centuries ago. They brought a profound understanding of humanity’s place in the universe and the natural world. At some point in that history, there was the “first canoe” whose crew members were inspired by vision, intuition, and trust in the discovery of a land far away that they had no knowledge of but which could sustain life in spectacular ways. In the 1960’s, Governor Burns launched us on a similar journey of discovery that asked UH to lead the State in building a knowledge-based sector to our economy that would establish Hawai’i as an international leader in science and technology based on our special and unique natural, cultural, and scientific resources. This voyage would not have been possible but for the imagination and foresight of the Hawai’i Island community responding to the devastation to Hilo caused by the 1960 tsunami and the recognition by a Hawaiian master optician and observer, Alika Herring, that Maunakea represents the best site for night-time observing in the world. Central to all of these voyages was a clear vision of what lies beyond that which we could imagine, and the courage to sail. Such courage is what’s needed now.



Master/Sublease Schedule Comparison

UH as Applicant

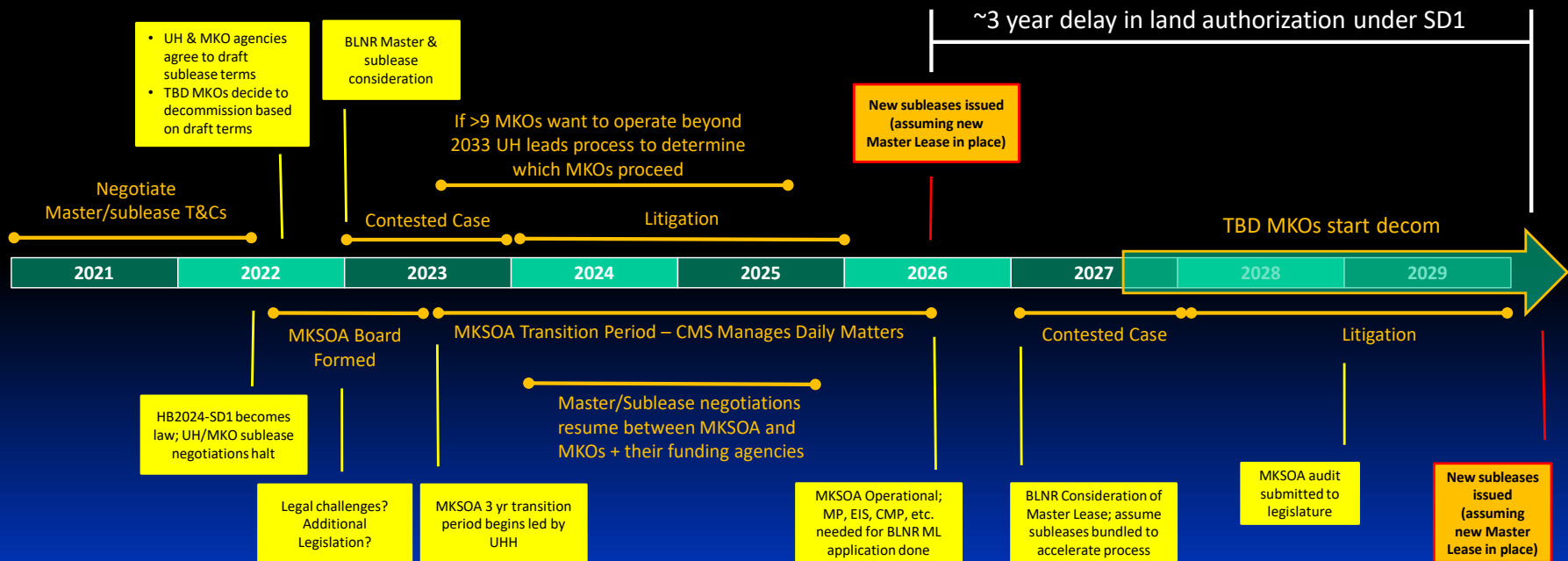


Figure 1. Comparison of Implementation Timelines



UNIVERSITY OF HAWAII SYSTEM
Legislative Testimony

ATTACHMENT A.1



UNIVERSITY OF HAWAII SYSTEM

Legislative Testimony

Testimony Presented Before the
Senate Committee on Higher Education
Tuesday, March 22, 2022 at 3:00 p.m.

By

Greg Chun, Executive Director
Center for Maunakea Stewardship
University of Hawai'i at Hilo

and

David Lassner, President
University of Hawai'i

HB 2024 HD1 – RELATING TO MAUNA KEA

Chair Kim, Vice Chair Kidani, and members of the committee:

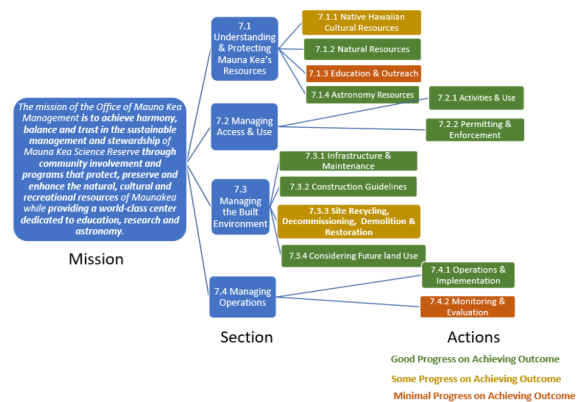
Mahalo for the opportunity to comment on HB 2024 HD1, relating to Mauna Kea. The University of Hawai'i ("UH") respectfully opposes HB 2024 HD1 as drafted on the basis that it is a misdirected attempt to resolve the deep-seated differences within our community regarding astronomy on Maunakea by changing the governance structure, without any balancing of the cost of doing so at this point in time. UH's current lease (and therefore subleases) lasts until 2033, and given the length of time required to obtain necessary approvals for a new land authorization, the governments and universities that support astronomy on Maunakea will be hard pressed to continue doing so without assurances about the State's support of astronomy on Maunakea. Even aside from the costs associated with starting a new governmental entity, and prematurely terminating existing contractual and property interests held by the observatories and UH, the ultimate toll that this Bill takes, if passed, is threatening one of our State's most successful global achievements based, respectfully, on an outdated narrative.

This Bill is founded on the narrative that UH is mismanaging Maunakea. More than twenty years following the long out-of-date 1998 audit, this is a false narrative, and UH has since made innumerable improvements and millions of dollars of investment. In 2000, in order to ensure more engagement and accountability to the Hawai'i Island community, the UH Board of Regents ("BOR") adopted the 2000 Master Plan that created the Office of Maunakea Management. UH Hilo then assumed many of the responsibilities previously held by the Institute for Astronomy ("IfA") on O'ahu, to more appropriately shift the focus to and on Hawai'i Island stakeholders. Improvements continued with the adoption of a Comprehensive Management Plan, Subplans (2009-10) ("CMP") and Hawai'i Administrative Rules ("HAR") chapter 20-26 (adopted by BOR in 2019 and approved by the Governor in 2020), which together, address the protection of Maunakea's cultural, natural, and scientific resources, ensuring safe public access,

managing commercial activities, and the decommissioning process for astronomy facilities.

UH has continued to shift stewardship and coordination to Hawai'i Island with the creation of the Center for Maunakea Stewardship ("CMS") under UH Hilo (2020) which brings together more closely than ever the environmental, cultural, educational, and operational elements of a comprehensive stewardship program. And most recently, the BOR adopted a new master plan (2021) that emphasizes the integration of culture and education with environmental stewardship and astronomy. The new master plan, for the first time, commits to a significant reduction in the number of astronomy facilities from the current 13 to a maximum of 9.

Multiple independent reviews in recent years have affirmed this work and counter the inaccurate premise of mismanagement that underlies this Bill. As we have reported in our testimony to the Joint House Committee re: HB 2024 (Attachment A), in its November 2019 Report on the Implementation of State Auditor's Recommendations 2014 – 2017, the State Auditor noted that of the several audit recommendations from 1998, only four (4) were outstanding. One item, directly under the control of UH, was completed with the BOR's adoption of HAR chapter 20-26. UH is actively working on the remaining three (3) items in coordination with the Department of Land and Natural Resources ("DLNR"), which has final approval on these particular tasks. These remaining items are dependent on (1) whether a new general lease is granted by the Board of Land and Natural Resources to UH and, more significantly, (2) whether there is a future for astronomy on Maunakea, both of which are decisions outside UH's sole authority.



From the Ku'iwalu Report – "The Links Between the OMKM¹ Mission and MCP Management Actions" demonstrates good management performance.

As a result of the hard work and investment of many, our stewardship programs have been recognized with multiple awards, notably in 2016 by the Kona Kohala Chamber of Commerce ("KKCC") and in 2017 by KKCC again and the Historic Hawai'i Foundation. Our stewardship also resulted in the removal of the wekiu bug from the endangered species candidate list in 2011 by the UH Fish and Wildlife Service who cited in their press release:

¹ "OMKM" is the former "Office of Mauna Kea Management" which has since been replaced with the creation of CMS in 2020 by the BOR.

“The removal of the wekiu bug is based on the successful management of the summit of Mauna Kea on the island of Hawai‘i. Survey work resulted in more than doubling the number of sites where this species is found. The protection and monitoring of the wekiu bug provided through the management plans for Mauna Kea has precluded the need to list this species.”

Most recently, the Ku‘iwalu Report² on which the Mauna Kea Working Group (“MKWG”) report³ and this Bill purports to be based, at least in part, noted that the UH managed lands on Maunakea are among the best managed lands in Hawai‘i.

The Ku‘iwalu Report also insightfully notes,

“Those who support existing and future telescope development on Mauna Kea believe that OMKM has adequately implemented the CMP MAs⁴ to preserve and protect the cultural and natural resources on Mauna Kea. For those who do not support continued telescope development on Mauna Kea beyond 2033, the expiration of the existing state lease, they believe that UH continues to mismanage Mauna Kea as concluded in the 1998 State Auditor’s Report.”

Astronomy on Maunakea was established over 50 years ago through the leadership of Governor Burns at the request of many in the Hawai‘i Island community. As a result, Maunakea is now the best site for astronomy in the world and the IfA is one of the top astronomy institutions in the world, a legacy about which our children and their children can be proud. Recognizing their responsibilities to do more for and with the community, UH and the Maunakea Observatories have implemented groundbreaking new programs. A Hua He Inoa has brought traditional Hawaiian naming practices to the naming of astronomical objects discovered in Hawai‘i resulting in international acceptance of Hawaiian names for major discoveries including the first “visitor” to our solar system from outside, ‘Oumuamua, and the first picture of a black hole, Pōwehi. The Maunakea Scholars Program provides Hawai‘i high school students on every island with access to the finest telescopes in the world to conduct their own research while mentored by UH IfA graduate students; the only such program in the world. These programs all result from the engagement and capacity within our UH campuses as part of our stewardship mission.

² The *Independent Evaluation of the Implementation of the Mauna Kea Comprehensive Management Plan*, dated December 2020, was prepared for DLNR at its request by Ku‘iwalu, tradename for Ho‘Akea LLC, a company owned and operated by Dawn N.S. Chang (“Ku‘iwalu Report”).

³ The MKWG was created by House Resolution No. 33, H.D. 1 to “develop recommendations, building on the findings of the [MKWG].” The MKWG issued its final report to Speaker Scott K. Saiki on January 25, 2021.

⁴ “MAs” refer to the 103 management actions enumerated in the CMP, and which are currently being updated as part of the CMP’s adaptive management review and update process.

The MKWG Report ignores the positive changes discussed herein, and the Bill is inconsistent with the State's support of astronomy on Maunakea. The changes made in HD1 provide token support to preserve astronomy. Instead, the Bill makes stewardship of the mauna the responsibility of a group that does not fully represent the community, most notably the astronomy community. The new authority created under the Bill would be statutorily charged with planning the end of astronomy. Removing UH from its stewardship role and the holder of the general lease under which it grants subleases to astronomy facilities would cause the demise of IfA as a global leader. UH would no longer have a say or control over guaranteeing the best use of complex and costly scientific equipment for Hawai'i students, researchers, and faculty, or guaranteeing that the benefits from unique science outcomes are spread across the community so that future generations can become leaders in astronomy, physics, and math.

If the Legislature wishes to affirm a positive, thriving integrated future for astronomy in Hawai'i consistent with UH's "commitment to the collaborative stewardship of Maunakea's cultural, natural, educational and scientific resources, and ... to move forward to collaboratively build a global model of harmonious and inspirational stewardship that is befitting of Maunakea" (BOR Resolution, August 24, 2017) then this Bill should be amended as follows.

- Commit in statute to expand, broaden, and diversify the range of community voices in planning and decision making as seems to be the intent of HB 2024 HD1 and direct the creation of an interagency management authority comprised of UH, OHA, DLNR, and DHHL to develop a collaborative governance model that includes community voices on its oversight board. The entity could be administratively attached to DLNR, and its role would be to establish an integrated management program with shared goals and resources for the collaborative stewardship of public lands on Maunakea with each entity playing a major role consistent with its respective mission. These common objectives would incorporate many of the MKWG's recommendations along with DHHL's 'Āina Mauna plan for Maunakea, UH's Master Plan for astronomy, relevant DLNR management plans, and the principles of the Kumu Kānāwai to promote the kind of holistic and integrated management approach for the mauna presented in the MKWG report. Such an approach would ensure that Maunakea lands would continue to be protected under the various administrative rules and management programs in place without having to recreate a new management regime and government entity while giving time for trust, communication, and collaboration to build.
- Commit in statute to the cultural underpinnings of the MKWG report and HB 2024 HD1 and direct the interagency management authority to integrate these principles into a joint stewardship program. These are established principles of nature's cycles that should inform and shape stewardship practice, and UH looks forward to exploring their application in our management plans and actions.

- Commit in statute to the future of astronomy on Maunakea as a matter of state policy with UH holding an appropriate land authorization only for the astronomy precinct within which the existing astronomy sites are located, Hale Pōhaku, and the road connecting these areas so we can continue to improve our stewardship, as we have committed to do. Approximately 10,000 acres currently under UH's general lease would return to DLNR control and management.
- Direct the interagency management authority to develop a community-based stewardship program for the lands withdrawn from UH's current general lease that provides educational, stewardship, and economic opportunities for native Hawaiians and the community.
- While UH opposes the Bill in its current form, if the committee is willing, we would be glad to assist in crafting a bill that would help achieve a vision of a thriving, respectful, and balanced future where astronomy works hand in hand with cultural, historic and environmental stewardship for the benefit of the mauna, community, and humanity. This approach could also address some of the legal issues inherent in the current draft such as avoiding impacts to existing contractual obligations that extend to 2033 under the existing subleases and other issues UH identified in our testimony to the House committees.

Polynesian explorers employed keen observation and generations of accumulated knowledge, including astronomical, to traverse the Pacific far-and-wide bringing humans to these islands centuries ago. They brought a profound understanding of humanity's place in the universe and the natural world. At some point in that history, there was the "first canoe" whose crew members were inspired by vision, intuition, and trust in the discovery of a land far away that they had no knowledge of but which could sustain life in spectacular ways. In the 1960's, Governor Burns launched us on a similar journey of discovery that asked UH to lead the State in building a knowledge-based sector to our economy that would establish Hawai'i as an international leader in science and technology based on our special and unique natural, cultural, and scientific resources. This voyage would not have been possible but for the imagination and foresight of the Hawai'i Island community responding to the devastation to Hilo caused by the 1960 tsunami and the recognition by a Hawaiian master optician and observer, Alika Herring, that Maunakea represents the best site for night-time observing in the world. Central to all of these voyages was a clear vision of what lies beyond that which we could imagine, and the courage to sail. Such courage is what's needed now.

Attachment A



UNIVERSITY OF HAWAII SYSTEM

Legislative Testimony

Testimony Presented Before the
House Committee on Water & Land,
House Committee on Judiciary & Hawaiian Affairs, and
House Committee on Finance

Saturday, February 19, 2022 at 9:00 a.m.

By

Greg Chun, Executive Director
Center for Maunakea Stewardship
University of Hawai'i at Hilo

HB 2024 – RELATING TO MAUNA KEA

Chairs Tarnas, Nakashima, and Luke, Vice Chairs Branco, Matayoshi, and Yamashita, and members of the committees:

Mahalo for the opportunity to comment on HB 2024, Relating to Mauna Kea. The University of Hawai'i is committed to the comprehensive and holistic principles for Maunakea stewardship advocated in the Mauna Kea Working Group ("MKWG") Report ("Report") and as called for in HB 2024. These principles are widely accepted as underlying accepted best practice in land and ecosystem management which are reflected in the collective commitments we have made through our Master Plan, Comprehensive Management Plan, component- and sub-plans, and our Administrative Rules. However, the University respectfully opposes HB 2024 for multiple reasons which are outlined in the attached response submitted during the public comment period on the MKWG draft report. We would like to take this opportunity to highlight a few of the more salient issues outlined in those comments.

1. Astronomy on Maunakea is a long-standing state policy. HB 2024 creates a new management entity with the authority to, among others things, "establish a plan to return the mauna above nine thousand two hundred feet elevation to its natural state." Support for astronomy on Maunakea goes back for more than fifty years. At that time, the State decided that it did not want to just be a passive landlord for the best observatories in the world but that Hawai'i should be the home of a world-class program of astronomy research and education. This has enabled Hawai'i to participate in and lead the discoveries that underlie human understanding of the origins of the universe and the celestial bodies around us.

Maunakea is truly deserving of the highest levels of stewardship. Decisions on access to Maunakea for culture, science, education, recreation, and commercial activities require broader policy discussions involving stakeholders across multiple communities and policy-makers on Hawai'i Island and the State. No single state

entity, the creation of which is proposed in HB 2024, should have the sole authority to make that policy decision on behalf of the state. Further, upon close examination the recommendation to eliminate astronomy is not substantiated in wider stakeholder input submitted during the comment period for the Report.

2. The complexities and costs of managing access to public lands have been underestimated in the Report upon which HB 2024 is based. Under the proposed powers and duties of this new entity, public access appears to be more restrictive and does not reflect the wide variety of values the broader community holds towards Maunakea, including recreational, subsistence, educational, and economic uses. Access to Maunakea by Hawai'i Island residents, including native Hawaiian practitioners, is one of the most contentious and consistently raised concerns in matters related to Maunakea. The Report underestimates the complexity of addressing public interests and coordinating across the various jurisdictions on Maunakea. Further, the proposal to include adjacent State and private lands into the jurisdiction of the new Governing Entity greatly exacerbates the complexities of the enterprise and significantly increases its resource requirements, which itself has not been adequately evaluated in the Report.
3. Legal, administrative, and funding issues present risks for implementation of the MKWG's Proposal. There are a number of legal, administrative, and funding concerns raised by the MKWG's proposal that will require further analysis and discussion. These include but are not limited to:
 - a. The potential constitutional concerns related to race-based membership of a government entity with control over state lands and resources.
 - b. The Report does not account for the complexity of the various jurisdictions on Maunakea, and the variety of funding sources that will need to be shored up, or replaced with general funds.
 - c. The lack of key Stakeholder representation on the board of the new Governing Entity (i.e., astronomy, UH, federal partners) will in and of itself create governance and funding problems.
 - d. The complexities and risks of successfully working through the aforementioned tasks of realigning, much less simply coordinating, management of public lands that are currently under leases and/or the jurisdiction of different agencies with different administrative rules.

All of these are complex issues and any one of these could significantly impede implementation of the proposed governance structure given the contentious nature of Maunakea stewardship and the significant resources required. Respectfully, attaching the success of a newly established entity to highly speculative outcomes is irresponsible without considerably more cost-benefit analyses than is provided in the Report and to substantiate HB 2024.

The basis of HR 33 HD1 (2021) that established the MKWG, the MKWG Report, and HB 2024 are claims that the University has mismanaged Maunakea. The University has

acknowledged and apologized for its stewardship of Maunakea prior to 2000. Subsequent state audits of the University's management of Maunakea have documented our commitment and improvement over time. Further, DLNR's 2020 Independent Evaluation of the University's implementation of the comprehensive management plan (CMP) showed that people's perceptions of UH's effectiveness as manager were associated with whether people supported telescope development on Maunakea. No change in management practice will satisfy many of those who oppose TMT or even astronomy on Maunakea. This is not a management issue; this is a policy issue that requires broader discussion.

As you know, the University's current lease for the Maunakea Science Reserve (MKSR) expires in 2033. Discussions have begun for a new land authorization; the current preferred alternative is to seek a new land authorization for a reduced area including the astronomy precinct, access road, and Halepōhaku **only**, effectively withdrawing 10,000 acres from the science reserve and returning them to DLNR management. The University continues to seek opportunities to work collaboratively to enhance stewardship of the mauna.

In closing, the University should be judged by our complete record which shows substantial improvement over time across multiple dimensions. Our commitment has been reliably demonstrated in time, effort, and resources committed by us over the years in the exercise of our stewardship responsibilities for the privilege of access we have. And as a result, as reported by many in the Independent Evaluation **"...the cultural and natural resources on the state conservation lands on Mauna Kea are some of the best managed and protected lands in the entire State"** and we have a world class research enterprise Hawai'i can be proud of.

Mahalo for the opportunity to provide our testimony. Further details outlining our opposition to HB 2024 are outlined in our response to the MKWG Report which we have attached here.

University of Hawai'i Response to the Maunakea Working Group's Draft Report:
He Lā Hou Kēia Ma Mauna A Wākea: A New Day On Mauna A Wākea

Mahalo for the opportunity to provide comments on the Mauna Kea Working Group's ("MKWG") Draft Report to the Hawai'i State Legislature entitled, *He Lā Hou Kēia Ma Mauna A Wākea: A New Day On Mauna A Wākea* ("Report"). It is clear from the Report that the MKWG worked diligently in fulfilling their charge.

We have organized our response around five themes that arise from the content of the Report: 1) The University of Hawai'i (UH) embraces the value of the Kānāwai principles; 2) The MKWG's recommendations risk the future of astronomy in Hawai'i and beyond; 3) The complexities and costs of managing access to public lands have been underestimated; 4) Legal and administrative concerns; and 5) UH's responsible stewardship of Maunakea.

Our cover letter summarizes our views on these themes with further elaboration provided in the Attachment. Our intent is to provide an overview of the real challenges and implications of the Report and provide background that should be considered prior to contemplating and drafting legislation seeking to build upon the recommendations in the Report. Further discussion is welcomed.

1. The Kānāwai principles are consistent with UH plans for Maunakea

We acknowledge and appreciate the holistic and integrated approach of the Kānāwai principles described in the Report. The symbiotic connections between the elements of nature, and of nature with humans, emphasizes the importance of sustaining balance between these forms. These principles are valuable guidelines for land use planning and decision making. We understand that stewardship of Maunakea is a privilege that requires a comprehensive and cohesive management program. The University embraces these perspectives, which are reflected in the integrated and balanced nature of our own Master Plan including our proposed update, our Comprehensive Management Plans, and our Administrative Rules that collectively and specifically outline our commitments and responsibilities to Maunakea, the state, and the communities we serve.

As you know, managing public lands, especially 'āina with as many complexities and conflicting expectations is extraordinarily complex. We are committed to continuous improvement and look forward to improving the application and integration of these principles into the University's existing and next plans within the context of governing laws and regulations.

2. The MKWG Report places the future of astronomy at risk

Foundational to the Report's recommendations is the position of the MKWG that astronomy on Maunakea above the 9,200 foot elevation should be phased out as an allowed land use (Page 25).

Support for astronomy on Maunakea is a longstanding State policy going back more than fifty years. At that time, the State decided that it did not want to just be a passive landlord for the best observatories in the world but that Hawai'i should be the home of a world-class program of astronomy research and education. This has enabled Hawai'i to participate in and lead the discoveries that underlie human understanding of the origins of the universe and the celestial bodies around us. It is not an overstatement to say that what is at risk here is the future of

astronomy as a field of human inquiry, as a source of economic activity on Hawai'i Island, as an inspiration for Hawai'i's youth, as a source of pride for the people of Hawai'i, and as an area of international excellence for UH and our students. Consistent with its place in Hawaiian cultural tradition and cosmology, *Maunakea stands as a uniquely treasured scientific and community resource.*

Maunakea is truly deserving of the highest levels of stewardship. Decisions on access to Maunakea for culture, science, education, recreation, and commercial activities require broader policy discussions involving stakeholders across multiple communities and policy-makers on Hawai'i Island and the State. The recommendation to eliminate astronomy is not substantiated by wider stakeholder input in the Report.

The risk to astronomy's future is further amplified by the lack of specifics in the implementation plan for establishing the new Governing Entity proposed by the MKWG. Numerous steps would need to be achieved to establish the new Governing Entity including, but not limited to, enabling legislation, land transfers, development of land use and management plans, permitting requirements, development and coordination of administrative rules across jurisdictions, standard operations start-up, and the potential for appeals at multiple steps along the way. At the Board of Regents direction, the UH administration conducted its own analysis of alternate governance models for Maunakea in 2020. The MKWG's projected timeline of three years to establish the new Governing Entity is unrealistic and exacerbates the risk to the future of astronomy due to the impending termination of the current general lease in 2033. These are no small steps and the lack of a viable business plan on top of these challenges makes success highly speculative, especially with the Report's reliance on general fund appropriation.

3. The complexities and costs of managing access to public lands have been underestimated

Under the proposed powers and duties in the Report, public access appears to be more restrictive and does not reflect the wide variety of values the broader community holds towards Maunakea, including recreational, subsistence, educational, and economic (including commercial tour operator) uses. Does the MKWG propose to prohibit snow play? Hunting? Hiking? Who would determine the legitimacy of claims made by individual native Hawaiian cultural practitioners?

Access to Maunakea by Hawai'i Island residents, including native Hawaiian practitioners, is one of the most contentious and consistently raised concerns in matters related to Maunakea. The Report underestimates the complexity of addressing public interests and coordinating across the various jurisdictions on Maunakea. The proposal to include adjacent State and private lands into the jurisdiction of the new Governing Entity exacerbates the operational complexities of the enterprise and significantly increases its resource requirements. It is also unclear on how new rules and procedures the new Governing Entity adopts would integrate with existing rules governing activities on DLNR, DHHL, County, and private landowner property that is included in the new land area defined in the Report. Importantly, who does the MKWG propose to allow to have access, who will it prohibit, and who will make decisions about how individuals are placed into categories that are allowed or disallowed access?

Finally, the Report does not meaningfully address the resource requirements of the new Governing Entity. Annual operating costs for stewardship alone are \$12M, the majority of which is covered by extramural and non-general funds generated by the University. In addition, the University provides world-class global network connectivity for all Maunakea Observatories so

that the data collected on the mountain can be shared with researchers and students at institutions around the world. Under the new management regime being recommended, absent other sources of revenue because of the uncertainty created about future access and use, a substantial investment by the State will be required to support a new stewardship program that would have jurisdiction for significantly more land than the current program.

4. Legal, administrative, and funding issues present risks for implementation of the MKWG's proposal

There are a number of legal, administrative, and funding concerns raised by the MKWG's proposal that will require further analysis and discussion. These include but are not limited to:

- A. The potential constitutional concerns related to race-based membership of a government entity with control over state lands and resources.
- B. The Report does not account for the complexity of the various jurisdictions on Maunakea, and the variety of funding sources that will need to be shored up, or replaced with general funds.
- C. As discussed before, stakeholder representation on the board of the new Governing Entity will in and of itself create governance and funding problems.
- D. The complexities and risks of successfully working through the aforementioned tasks of realigning, much less simply coordinating, management of public lands that are currently under leases and/or the jurisdiction of different agencies with different administrative rules.

All of these are complex issues and any one of these is a potential show stopper given the contentious nature and resources required of them. Attaching the success of a newly established entity to highly speculative outcomes requires considerably more cost-benefit analyses than is provided in the Report.

5. The University's commitment and ability to successfully steward Maunakea has been demonstrated

The University has acknowledged and apologized for its stewardship of Maunakea in the last century. Subsequent state audits of the University's management of Maunakea have documented our commitment and improvement over time. In its *Report on the Implementation of State Auditor's Recommendations 2014 – 2017*, the State Auditor noted that of the several audit recommendations from 1998, only four (4) were outstanding as of its November 2019 report. One item, directly under the control of the University, was completed with the University Board of Regents' ("BOR") adoption of Hawai'i Administrative Rules ("HAR") chapter 20-26 on November 6, 2019 (approved by the governor on January 13, 2020). The University is actively working on the remaining three (3) items in coordination with DLNR, which has final approval on these particular tasks. These remaining items are dependent on whether a new general lease is to be granted to UH and, more significantly, whether there is a future for astronomy on Maunakea, both of which are decisions outside UH's sole authority.

The University is charged with implementing 103 management actions in the *Mauna Kea Comprehensive Management Plan*, adopted by BLNR in 2009 ("CMP"). The University's implementation of the CMP was the subject of an independent review conducted by Kuiwalu in December 2020 at the direction of DLNR ("Independent Evaluation"). DLNR's Independent Evaluation of the University's implementation of the comprehensive management plan showed that UH had achieved good or some progress on 8 of the 10 desired outcomes identified in the

CMP. The two outcomes where we received a minimal progress rating are actively being worked on. This evaluation also found that **people's perceptions of UH's effectiveness as manager were associated to whether people supported telescope development on Maunakea, i.e., no change in management practice will satisfy many of those who oppose TMT or even astronomy on Maunakea.** This is not a management issue; this is a challenging and contentious statewide policy issue that is, again, not a decision that UH alone makes.

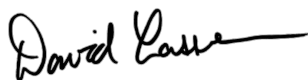
Our efforts to improve stewardship have been recognized by the community. In 2017 UH received the Pualu Award from the Kona-Kohala Chamber of Commerce for our education and outreach. In 2017 UH received a Preservation Commendation Award from the Historic Hawai'i Foundation for our interpretative efforts. And in 2016 we received the Pualu Award for Environmental Awareness from the Kona-Kohala Chamber of Commerce. Finally, and perhaps most notable, in 2011 the Wekiu Bug was removed from endangered species candidate list because of our ecosystem restoration efforts.

The University should be judged by our complete record which shows substantial improvement over time across multiple dimensions. Our commitment has been reliably demonstrated in time, effort, and resources committed by us over the years in the exercise of our stewardship responsibilities for the privilege of access we have. **The University believes that the criticism of "mismanagement" often levied against UH, and seemingly the basis for the Report, is now inaccurate and derives from the accusations of those who oppose the state policies in support of astronomy on Maunakea rather than the actual practices of the University.**

For these, and the reasons further detailed in the Attachment, we humbly suggest that instead of creating a new entity, the focus turns to what the Hawai'i Island community, native Hawaiian practitioners, Maunakea observatories, and DLNR have learned over time to continuously improve the University's stewardship of what has become one of the most, if not the most complex land management challenge in Hawai'i.

We are available for any questions you or others may have regarding our comments and our stewardship program.

Na māua iho nō me ka 'oia'i'o,



David Lassner
President, UH System



Gregory Chun
Executive Director, Center for Maunakea Stewardship

ATTACHMENT

University of Hawai'i (UH) Response to the Maunakea Working Group's Draft Report: He Lā Hou Kēia Ma Mauna A Wākea: A New Day On Mauna A Wākea

1. The Kānāwai Principles are Consistent with UH Plans for Maunakea

UH acknowledges and appreciates the holistic and integrated approach of the Kānāwai principles described in detail in the Foreword, Introduction, and Chapters 2 and 3 of the Report. The symbiotic connections between the elements of nature, and of nature with humans, emphasizes the importance of sustaining balance between these forms. As stated in the report:

“Normalizing the use of these traditional kānāwai in our modern society protects the life of kanaka, flora and fauna, as well as the health of the environment and the balance of its natural cycles. Developing this worldview can start with an inquiry into native ecology, observing nature, developing a relationship and appreciation of natural phenomena, and exhibiting a sense of responsibility in protecting that which nurtures and feeds us, the ‘āina.” (Page 5).

The connected nature of our surroundings and, therefore, the importance of sustaining balance between the various branches of the natural world are well established in many indigenous cultures. It is a lesson lost upon a large fraction of the world's population and as an institution grounded in science, UH finds the concepts laid out in the four kānāwai to be sound and relatable. They are the product of centuries of observation and learning in an island setting, developing practices that fundamentally sustain populations of living organisms, including humans, over long periods of time. Embracing them in the future makes sense, given the demonstrated success of their application in the past.

Chapter 3 of the Report is an attempt to bridge the elegant concepts laid out in the previous chapters into a management structure predicated on the kānāwai. Guiding principles are articulated, including:

“We are driven by creativity and innovation, constantly challenging the status quo. Our stewardship of Maunakea is informed based on existing knowledge and traditions (kānāwai) as well as on new and expanding knowledge. We are mindful and observant of needs, trends, and opportunities and seek new knowledge and opportunities in ways that enhance our ability to serve as stewards without jeopardizing our foundation of ‘āina aloha.” (Page 20).

This is an important statement because it explicitly acknowledges the importance of continuity in knowledge systems to support ‘āina aloha, past, present, and future through “...new knowledge and opportunities...”. It is a hopeful and upbeat statement, but the report fails to identify how the approach proposed would actually lead to “new knowledge and opportunities” for our community. It sets up a dichotomy of interests and begs the question, what is the ultimate goal of the proposed management model?

The management of public lands is complicated, as you know, and as any agency will tell you. But, unlike any other land management framework in the state, the University has several layers built into its management framework that includes the Hawai'i Island community, academics, observatory operators, and the native Hawaiian community who are represented at various levels of decision making. This framework for managing lands on Maunakea was developed

over decades. The University has built constituencies, infrastructure, and funding to support its efforts. The University's new draft Master Plan and our updates to the Comprehensive Management Plan consider and incorporate what has been learned. Through its experience, the University has successfully moved toward a more balanced goal of astronomy, stewardship, and respect for Maunakea.

The University understands that stewardship of Maunakea is a privilege that requires a comprehensive and cohesive management program. The University embraces the intent of the k^ān^āwai, which is reflected in the integrated and balanced nature of our master plan and our proposed update, management plans, and administrative rules that collectively outline our commitments and responsibilities to Maunakea, the state, and the community in specific terms. These principles are valuable guidelines for land use planning and decision making and we are committed to continuous improvement and look forward to learning how to improve the application and integration of these principles into the University's existing plans and policies and within the context of governing law and regulation. Maunakea lands currently managed by the University are ceded lands with great cultural significance to native Hawaiians. Ceded lands are held in trust for the five (5) purposes enumerated under section 5(f) of the Admission Act of 1959 and the k^ān^āwai principles can help further balance those objectives.¹

2. The MKWG Report places the future of astronomy is at risk

Foundational to the Report's recommendations is the position of the MKWG that astronomy on Maunakea above the 9,200 foot elevation will no longer be an allowed land use:

"The Governing Entity shall develop a framework to limit astronomy development on the mauna, through development limitations that may include limitations on the number of astronomy facilities or an astronomy facility footprint limitation; provided that in establishing a framework to control astronomy development on the mauna, the Governing Entity shall establish a plan to return the mauna above 9,200 feet elevation to its natural state" (Page 25).

The Report also states that the MKWG had robust discussions over whether future legislation should limit the current astronomy footprint:

"The full Working Group had a robust conversation as to whether the Governing Entity should be prohibited from allowing either an increase to the current number of astronomy facilities or an increase to the current astronomy development footprint. Ultimately, the Working Group was not able to reach an agreement, with some members preferring not to set a specific astronomy footprint or astronomy facility number limit in legislation and others wanting a smaller footprint or less telescopes than what currently exists. Some members wanted a lower number of telescopes, such as the Governor's and the University of Hawaii's proposed nine telescopes. Nine telescopes, while a lower number than the thirteen telescopes that currently exist on the mauna, still represents an increase in the current astronomy footprint, which was unacceptable to some members" (Page 25 Footnote 5).

¹ Section 5(f) of the Admission Act, provides that ceded lands trust purposes are "[1] the support of the public schools and [2] other public educational institutions, [3] the betterment of the conditions of native Hawaiians, as defined in the Hawaiian Homes Commission Act, 1920, as amended, [4] the development of farm and home ownership on as widespread a basis as possible for the making of public improvements, and [5] the provision of lands for public use."

The Report is also not clear on the question of funding and the details of implementation are lacking:

“To support the Governing Entity, a special fund shall be created as an on-going revenue base of funding. The Governing Entity shall consider various supplemental revenue sources to be deposited into the special fund, including but not limited to renegotiated lease terms and fees; observatory use fees; common area maintenance; toll fees; general funds; ecosystem service fees; user fees; other surcharges or fee structures; and state, county and federal funding” (Page 27).

“To assure that the Governing Entity has adequate time to establish itself, the Governing Entity shall have a transition period of three years to assume management of Mauna a Wākea lands”; and,

“To help establish the Governing Entity, general funds should be allocated by the Legislature for at least the first five years. Special funds shall also be used to provide financial support for the Governing Entity.” (Pages 24 and 27)

Further, the Report states decision making regarding the new managed lands will be under the “sole authority” of the proposed new Governing Entity:

“The Governing Entity shall be the sole authority for the management of designated state-owned lands on Mauna a Wākea (See JURISDICTION)” (Page 24).

Collectively, the result of these proposed changes, *i.e.*, uncertainty regarding: the future for astronomy, implementation requirements, and decision-making authority, is to increase substantially the risk to the ongoing viability of astronomy. Importantly, the process for implementing the recommendations must occur at an unprecedented pace to enable a future for Maunakea (Hawai'i) astronomy. Numerous steps would need to be achieved including but not limited to enabling legislation, land transfers, development of land use and management plans, development and coordination of administrative rules across jurisdictions, and operations start-up. The projected timeline of three years to establish the new entity is unrealistic and exacerbates the risk to the future of astronomy due to the impending termination of the current general lease in 2033 (see section 5 herein for UH's governance analysis). The lack of a viable business plan on top of these make success highly speculative, especially with the Report's reliance on general fund appropriation.

It must also be noted that these changes require not just State of Hawai'i approval but they must be embraced by US and international federal funding agencies that are wary of large-scale change without assurances of long-term stability. The prospect of protracted litigation, on top of all the other challenges to forging, funding, and implementing a new Governing Entity in the three years prescribed, will surely push the timescale for this proposal well beyond the horizon of viability for the existing Maunakea Observatories.

Support for astronomy on Maunakea is a longstanding State policy going back more than fifty years. At that time, the State decided that it did not want to just be a passive landlord for the best observatories in the world but that Hawai'i should be the home of a world-class program of astronomy research and education. This has enabled Hawai'i to participate in and lead the discoveries that underlie human understanding of the origins of the universe and the celestial

bodies around us. It is not an overstatement to say that what is at risk here is the future of astronomy as a field of human inquiry, as a source of economic activity on Hawai'i Island, as an inspiration for Hawai'i's youth, as a source of pride for the people of Hawai'i, and as an area of international excellence for UH and our students. Consistent with its place in Hawaiian cultural tradition and cosmology, *Maunakea stands as a uniquely treasured scientific and community resource.*

3. The complexities and costs of managing access to public lands have been underestimated

Under the proposed powers and duties in the Report, public access appears to be more restrictive and does not reflect the wide variety of values the broader community holds towards Maunakea, including recreational, subsistence, educational, and economic (including commercial tour operator) uses. Does the MKWG propose to prohibit snow play? Hunting? Hiking? Who would determine the legitimacy of claims made by individual native Hawaiian cultural practitioners?

Access to Maunakea by Hawai'i Island residents, including native Hawaiian practitioners, is one of the most consistently raised concerns in matters related to Maunakea. The Report's proposal appears to be more restrictive and may not reflect the wide variety of values the broader community holds towards Maunakea, including recreational, subsistence, educational, and commercial uses. For example, the Report states on pages 24 and 26:

*"The Working Group recognized that the scope of managing an area of such important cultural significance and geographic size presents many challenges. **Additionally, because Mauna a Wākea is the kuahiwi, or backbone, of Hawai'i Island in a structural, physical, and spiritual sense, the Governing Entity should work toward decreasing the human footprint of all users and visitors of Mauna a Wākea.**" (Emphasis added); and,*

"The Governing Entity shall establish a management framework guided by the Kumu Kānāwai to manage access, stewardship, education, research, permitted uses for frequent and seasonal users, and overall operations. The Governing Entity shall also prohibit commercial use and activities (not including astronomy) above Hale Pohaku and develop rules to designate areas for permissible use, including defining "commercial use."; and,

"The Governing Entity shall consider restrictions via applications and registration processes to ensure user compliance. Additionally, the Governing Entity shall require an application for all recreational uses, including fees, and create guidelines on limits by monitoring the impacts of recreational use over time."

In 2020 Governor Ige approved Hawai'i Administrative Rules ("HAR") Chapter 20-26 which was developed by the University with significant public input received over multiple years, to be able to enforce our stewardship responsibilities. HAR Chapter 20-26 regulates commercial and public activities on Maunakea lands managed by UH. The rules allow activities subject to the impacts of those activities being addressed. Commercial activities, such as commercial tours, are regulated by permit and operators are required to pay for the impact they have on the resources and for use of public facilities. Commercial tour operators provide a needed service by reducing independent vehicles driving up Maunakea, and this activity provides economic opportunities for the local community. Under HAR 20-26 the University is authorized to levy fees and fines with the opportunity for appeal. The University regulates impacts to resources

caused by public and commercial activities, not native Hawaiian cultural practices. And despite vague criticisms to the contrary, the University has never denied access to native Hawaiian cultural practitioners.

Finally, the Report does not meaningfully address the resource requirements of the new Governing Entity. Annual operating costs for stewardship alone are \$12M, the majority of which is covered by extramural and non-general funds generated by the University. In addition, the University provides world-class global network connectivity for all Maunakea Observatories so that the data collected on the mountain can be shared with researchers and students at institutions around the world. Under the new management regime being recommended, absent other sources of revenue because of the uncertainty created about future access and use, a substantial investment by the State will be required to support a new stewardship program that would have jurisdiction for significantly more land than the current program.

4. Legal, administrative, and funding issues present risks for implementation of the MKWG's proposal

There are a number of legal, administrative, and funding concerns raised by the MKWG's proposal that will require further analysis and debate. These include but are not limited to:

- A. The potential constitutional concerns related to race-based membership of a government entity with control over state lands and resources.

While we understand the intent, the designation of members of a state entity by race raises state and federal constitutional questions. Note that the Kaho'olawe Island Reserve Commission (HRS § 6K-5) and the burial council (HRS § 6E-43.5), both referenced in the Report, do not limit seats on its boards to "native Hawaiians." Instead, for example, burial councils are comprised as follows:

"Regional representatives shall be selected from the Hawaiian community on the basis of the representatives' understanding of the culture, history, burial beliefs, customs, and practices of native Hawaiians in the region they each represent."

We acknowledge that other agencies have board compositions where seats are explicitly designated for native Hawaiians. For example, the Hawaiian Homes Commission Act § 202(a) provides that "at least four of the members shall be descendants of not less than one-fourth part of the blood of the races inhabiting the Hawaiian Islands previous to 1778." And, the Papahānaumokuākea Council Charter provides that members shall include "three Native Hawaiian representatives." However, the purposes of those bodies are distinctly different from the new Governing Entity. DHHL was established specifically for the benefit of native Hawaiians and Papahānaumokuākea is an interagency management collaborative where individual partners do not cede their jurisdiction to the collaborative. Board composition tied to race should be further evaluated, particularly when the authority of the new Governing Entity is to manage public lands and state resources.

- B. The Report does not account for the complexity of the various jurisdictions on Maunakea, and the variety of funding sources that will need to be shored up, or replaced with general funds.

- i. Public lands should remain with the State for the benefit of the public.

On page 24 of the Report, the MKWG states:

“The public land trust lands held by the Governing Entity shall be held in trust as part of the public land trust; provided that the State shall transfer management and control of the lands to a sovereign Native Hawaiian entity upon its recognition by the United States and the State of Hawai‘i”

This language mirrors Hawai‘i Revised Statutes § 6K-9, related to the Kaho‘olawe Island Reserve Commission. However, Maunakea is not Kaho‘olawe. While both are culturally significant, unlike Kaho‘olawe, Maunakea is actively used by the Hawai‘i Island community, including native Hawaiians, researchers, and others from across the state. These are ceded government lands that should remain with the State of Hawai‘i for the five (5) stated purposes under section 5(f) of the Admission Act.

- ii. The Report’s proposal to expand the land area under a new Governing Entity adds uncertainty and complexity to an already complex management issue.

The Report recommends a significant expansion of currently managed lands, pulling in private lands and other state lands managed under different laws as follows:

“the jurisdiction area for the Governing Entity shall be state-owned lands above the 6,500 foot elevation line, inclusive of Pu‘u Huluhulu to the summit of Mauna a Wākea, in order to care for Mauna a Wākea through an integrated, whole systems approach. Additionally, for lands outside of its jurisdiction, the Governing Entity shall enter into cooperative management agreements with the Department of Hawaiian Home Lands, County of Hawai‘i, and private landowners whose lands are within the jurisdiction area.”

Conservative estimates of this expansion could include approximately 56,000 acres of DHHL property, and more than 50,000 acres and 3,800 acres designated as DLNR Forest Reserve (“FR”) and Natural Area Reserve (“NAR”) land, respectively, in addition to other unidentified state, county, and privately owned lands that are referenced. The Report does not provide any details on how the new entity will manage state and private lands, and it is unclear what is meant by the new Governing Entity having jurisdiction over adjacent private lands as proposed in the Report. The Report discusses the idea of cooperative agreements but there could be significant property right issues raised through this expansion.

- iii. Powers and duties of the new Governing Entity are unclear and already exist.

Existing plans and rules developed and implemented by the University and DLNR over decades of learned and practiced management provide the integrated planning and decision-making framework suggested in the Report.

Chapter 3 of the Report details the powers and duties of the new governing entity on pages 24-25. Among other matters, it states that:

“...the Governing Entity shall develop a single plan that dictates the management of land uses; human activities, uses, and access; stewardship; and disposition. The plan shall be developed during the transition period; finalized and approved, and operational by the end of the transition period; and updated every ten years with a focus on long-term, comprehensive, coordinated planning for all of the managed lands. Additionally, the plan shall consider the state’s energy and sustainability goals, as well as impacts to climate change, including adapting to climate change and developing mitigation measures to climate change, and shall incorporate indigenous management and cultural processes and values.”

Before updating of the master plan for lands managed by the University on Maunakea, the University explored the idea of combining its two governing documents: the master plan adopted by BOR and the CMP adopted by BLNR. Based on the University’s assessment, in consultation with DLNR, we determined that combining them may not be practicable.

Both plans are implemented together and are consistent; however, each serves a different purpose. The CMP is a plan required when applying for a conservation district use permit. It addresses ongoing resource management practices to avoid, mitigate, or minimize impacts caused by proposed uses and activities. The master plan is the University’s vision for the lands it manages on Maunakea for a period of years, and it provides a framework for proposed land uses and decision making early in the planning process before a proposal is advanced to permitting, environmental review, and funding consideration. The University’s master plan and CMP, along with the administrative rules, collectively are required to achieve the state’s long-term goals of stewardship and sustainability.

Chapter 3 of the Report also provides that the new governing entity must comply with various statutes applicable to state agencies, but suggests that Maunakea lands be placed in the FR. On page 25 of the Report, it states:

“To maximize transparency, the Governing Entity shall be subject to administrative procedure pursuant to chapter 91, Hawaii Revised Statutes; Sunshine Law, pursuant to chapter 92, Hawaii Revised Statutes; the State Procurement Code, pursuant to chapter 103D, Hawaii Revised Statutes; and chapters 183, 205, 205A, and 343, Hawaii Revised Statutes.”

The Report suggests that these lands should be subject to HRS chapter 183, *Forest Reserves, Water Development, Zoning*. Lands designated FR will be subject to the rules and program under DLNR’s Division of Forestry and Wildlife (“DOFAW”). FR rules are far more restrictive generally than conservation district rules (e.g., it is unlikely that astronomy facilities would be allowed in the FR).

Building capacity to operate under HRS chapter 91, the Hawai’i Administrative Procedures Act (“HAPA”), takes time, staff, and resources. HAPA covers rule making, contested cases, and declaratory orders. The Report does not provide

detail on these resource-intensive requirements. These regulatory frameworks are needed, if as the Report suggests, the new entity will have more enforcement authority than the University currently has. The Report states on pages 26-27:

“[T]he Governing Entity shall work with the Department of Land and Natural Resources’ Division of Conservation and Resources Enforcement and Hawai’i County Police enforcement structure to enforce rules and monitor public safety through cooperative agreement. Additionally, the Governing Entity shall create operational procedures that are guided by the Kumu Kānāwai and implemented by enforcement partners.”

The Report is unclear on how new rules and procedures it adopts would integrate with existing rules governing activities on DLNR, DHHL, private, and other government lands included in the new land area defined in the Report. It is also unclear what the statement “...guided by the Kumu Kānāwai and implemented by enforcement partners” means to people who would visit Maunakea, such as Hawai’i Island residents, including native Hawaiians.

The University already has administrative processes and procedures in place. It already works under the sunshine law, procurement, HRS chapter 343, and other agency regulations related to land use. These processes have been scrutinized and tested by internal audits, state audits, DLNR oversight, and Hawai’i courts. How these matters are proposed to be handled directly impacts the viability and resource needs of the new entity.

C. The adequacy of stakeholder representation on the board of the new Governing Entity.

The Report recommends the establishment of a new attached state agency governed by a board of directors: On page 22, the Report states:

“The Governing Entity shall be attached to the Office of the Chairperson of the Board of Land and Natural Resources for administrative purposes. Decision-making for the Governing Entity shall be made by a nine-member board, of which seven seats shall be appointed and two seats shall be held by ex-officio members, with the board selecting a Chair from among its non-ex-officio members; provided that the Chair shall not be the Executive Director of the Governing Entity. Additionally, of the nine members, four of the seven non-ex-officio board members shall be Native Hawaiian Hawaii Island residents, with a preference for Native Hawaiian Hawaii Island residents for all seven non-ex-officio board seats.”

While the University agrees that broad representation on the governing board of a state land management entity is needed to ensure the range of perspectives Maunakea deserves, key expertise is lacking from the proposed structure, including seats for observatory and University representatives.

The MKWG’s lack of consensus for having astronomy representation and for eliminating University representation on the governing entity board is problematic. The Report argues that this would create a potential conflict of interest. First, it is not uncommon to have tenant and stakeholder representation on governing boards of attached state agencies. For example, the Natural Energy Laboratory of Hawai’i (“NELHA”) maintains

two seats on its board of directors for tenants who hold direct leases from the agency. Second, every board, public and private, deals with conflicts of interest through reporting and recusal procedures, so this alone is not sufficient reason to omit these important perspectives especially if they are a primary source of funding stewardship activities.

By contrast, the University's management framework includes community advisory groups, such as Mauna Kea Management Board ("MKMB") and Kahu Kū Mauna ("KKM") who have early and direct input into the decision-making process. Additional committees that advise the MKMB, like the Environment Committee ("EC"), provide additional, specific expertise. All of these advisory groups include Hawai'i Island members who are directly impacted by decisions on Maunakea.

- D. Working through the aforementioned complexities of realigning, much less simply coordinating, management of public lands that are currently under the jurisdiction of different agencies, subject to different administrative rules, appear to have been underestimated, like the time for of start-up and amounts of funding.

The details of the University's concerns here were outlined in section B(iii) above. The processes for working through the challenges of multiple jurisdictions are already in place so further analysis should be performed to discern the cost of duplication or replication of these processes, as compared with any purported benefit.

Each of these issues is itself complex, and any one of them is a potential show stopper given the contentious nature and resources required of them. Attaching the success of a newly established entity to highly speculative outcomes requires considerable more analysis before even attempting to draft legislation.

5. The University's commitment and ability to successfully to steward Maunakea has been demonstrated

While not explicitly stated in the Report, the rationale for the formation of the MKWG, and the need to establish a new governing entity, appears to be based on the assumption that a new entity could manage Maunakea better than the University. This assumption seems to be based on a snapshot of reports that evaluated the University's management over the years as well a lack of recognition of the University's own efforts and response to the University's critics.

- A. State audits of the University's management of Maunakea show improvement over time

The Report on page 3 cites a series of State Audits that began in 1998 and concludes with the statement that "Subsequent reports, which still identified shortcomings, were filed by the State Legislative Auditor's office in 2005, 2014, 2017, and 2019." The University has acknowledged and apologized for its stewardship of Maunakea in the last century, but subsequent state audits of the University's management of Maunakea have documented our commitment and improvement over time.

In its *Report on the Implementation of State Auditor's Recommendations 2014 – 2017*, the State Auditor noted that of the several audit recommendations from 1998, only four (4) were outstanding as of its November 2019 report. One item, directly under the control of the University, was completed with the University Board of Regents' ("BOR") adoption of Hawai'i Administrative Rules ("HAR") chapter 20-26 on November 6, 2019 (approved by the governor on January 13, 2020).

The University is actively working on the remaining three (3) items in coordination with DLNR, which has final approval on these particular tasks. These three (3) items are:

- i. “The University of Hawai‘i should renegotiate with existing sublessees to amend subleases to include provisions that address stewardship issues, as modeled by the provisions in the 2014 TMT sublease, following execution of the new general leases for UH-managed lands on Mauna Kea”;
- ii. “The Department of Land and Natural Resources should continue working with UH to renew the general leases for the UH-managed lands on Mauna Kea and ensure the leases are substantially in the form DLNR’s Land Division recommended for approval by the land board”; and
- iii. “The Department of Land and Natural Resources should use additional stewardship-related conditions contained within the TMT observatory permit as a template in all new observatory permits issued for the summit of Mauna Kea.”

The timeline on the first two of these audit items is affected by challenges brought by the Office of Hawaiian Affairs (“OHA”) and other groups who oppose TMT in several ongoing administrative and judicial appeals. If the Board of Land and Natural Resources (“BLNR”) grants the University another general lease, then BLNR must approve the first two items, which the University intends to comply with. The third audit item regarding whether BLNR grants a new astronomy facility conditional use permits is not within the University’s control.

These audit findings show the significant progress the University has made over time in fulfilling its management responsibilities. Reliance on those past audits as a measure of the University’s recent or current performance is no longer valid, and the past audits do not support taking the management away from the University. Instead, those audit reports confirm that the University has learned from its decades-long management and improved based on that experience.

- B. The Independent Evaluation of University’s implementation of the CMP was positive in most all areas, and the University has made changes to improve the few areas marked for improvement

The University is charged with implementing 103 management actions in the *Mauna Kea Comprehensive Management Plan*, adopted by BLNR in 2009 (“CMP”). The University’s implementation of the CMP was the subject of an independent review conducted by Kuiuwalu in December 2020 at the direction of DLNR (“Independent Evaluation”).

The Report picked up on some aspects of the Independent Evaluation; however, it is important to consider the actual text of the Independent Evaluation. As stated in the Independent Evaluation:

“The purpose of this Independent Evaluation Report (Report) is to (1) evaluate the effectiveness of UH, specifically OMKM’s, implementation of the specific Management Component Plans (MCP) found in Section 7 of the CMP, and (2) to evaluate the efficiency of the governance structure in managing the cultural and natural resources within state conservation lands under lease to UH.”

The Independent Evaluation offers the following conclusions:

- i. “UH’s self-assessment and many of the public comments which included members of the Native Hawaiian community and government agencies, have acknowledged that OMKM has implemented most of the 103 MAs within the MCPs. Many have commented that OMKM has effectively implemented many of the MAs that have resulted in protecting and preserving the cultural and natural resources within the state conservation lands.”
- ii. “[I]n the areas of untimely adoption of the administrative rules, cultural resources, and education and community outreach, especially with the Native Hawaiian stakeholders, the efforts by OMKM have been ineffective to achieve the desired outcome.”

It is important to note regarding the above conclusions that:

- i. At the time of the Independent Evaluation, HAR chapter 20-26 was adopted by BOR and approved by the governor. The University is currently implementing the rules. Before BOR adopted the rules (which it was granted authority to adopt in 2009 under Act 132), the University was continuously implementing the 103 CMP management actions, administering commercial tour operator permits, and coordinating on enforcement related to resources and public health and safety with entities like DLNR and its various programs² and county first responders.
- ii. Outreach to the Hawai’i Island community, including native Hawaiians, has been a mainstay of University management on Maunakea, and it is built into its management framework. This includes outreach through advisory groups like KKM³ and the MKMB⁴ as well as local schools, community groups, businesses, native Hawaiian faculty, lineal descendants, and those who identify as kia’i. The recent adoption of HAR chapter 20-26 and the on-going work finalizing the new master plan include significant efforts by the University to capture community input, resulting in thousands of comments and dozens of meetings with interested groups. All substantive comments were considered, which the University has documented in its rulemaking process and the new master plan Volume II.
- iii. There has always been an education component for the public and community outreach conducted by the University and directly by the Maunakea observatories. The University’s recent reorganization furthers this work by designating the ‘Imiloa Astronomy Center for orientation programs and educational partnerships by BOR resolution and executive policy.

The Independent Evaluation ***did not conclude that UH has “mismanaged” Maunakea***, a term often used against the University. Here is how the Independent Evaluation discusses “mismanagement”, only once and quoted in full:

“The public’s assessment of how effectively UH has implemented the CMP has primarily varied depending on whether they are in favor or opposition of

² For example the State Historic Preservation Division, Division of Conservation and Resources Enforcement, Division of Forestry and Wildlife, Office of Conservation and Coastal Lands, etc.

³ Comprised of individuals knowledgeable about native Hawaiian cultural practices who advise the MKMB.

⁴ Composed of members representing the major stakeholders of Maunakea; primary role is to advise the Office of the Chancellor at the University of Hawai’i at Hilo on management of the Mauna Kea Science Reserve.

*telescope development on Mauna Kea. Those who support existing and future telescope development on Mauna Kea believe that OMKM has adequately implemented the CMP MAs to preserve and protect the cultural and natural resources on Mauna Kea. **For those who do not support continued telescope development on Mauna Kea beyond 2033, the expiration of the existing state lease, they believe that UH continues to mismanage Mauna Kea as concluded in the 1998 State Auditor's Report.** In particular, those in opposition believe that UH continues to advocate telescope development over the protection and preservation of the resources.*

With respect to the broader public comments on the effectiveness of the UH governance structure, most see UH as one entity. They either believe that the UH existing structure is doing a good job, or they believe that UH is mismanaging Mauna Kea and there is very little in between.

(Emphasis added.)

It should be noted that the University's newly issued draft Master Plan establishes a limit of nine telescopes post 2033. It also restricts future development to existing observatory sites. The University committed to these limits despite considerable differences with astronomy advocates.

C. The University and its advisory groups take constructive criticism seriously.

At the direction of the BOR, in April 2020, the University completed an analysis of alternative governance models that included models in which the University did not serve as primary manager. The analysis evaluated the benefits and challenges of establishing the various forms of new entities identified (see [BOR Presentation \[4.16.20\]](#)). In the University's analysis of governance models, the University concluded that three (3) years is not sufficient time to transfer legal rights under existing agreements, staff, resources, programs, plans, policies, and other elements of the University management program and apparatus to a new, yet-to-be-formed entity. Given the need for bicameral legislative support and based on past legislative efforts, the University determined it would take several years for the enabling legislation to be passed to form the new entity. This short timeline also does not account for the approvals required for a new master plan, management plan, permits, administrative rules, general lease, and observatory subleases, and for developing a viable business plan that ensures the new entity's sustainability.

As a result, the University has focused its attention on the governance alternative within its control and broadened community representation within its existing advisory groups. In 2021, the EC increased its membership, bringing different expertise and perspectives to its committee. KKM updated its purpose statement and is actively recruiting new members to reflect their renewed vision. The voices on the EC and KKM are diverse and include members who share some of the views of Hawai'i Island kia'i.

At their December 7, 2021 public meeting, the MKMB passed a motion recommending that the University administration restructure MKMB along the lines of what was identified as Model 4A, Collaborative Management with UH, in the University's analysis of governance models. Model 4A expands the current MKMB from seven to nine members; designates ex-officio seats on the MKMB for DLNR, DHHL, OHA, and the

County of Hawai'i; and redistributes representation of the remaining seats to include various stakeholder interests.

In many ways, the MKWG's recommended structure parallels what the University is in the process of implementing except that the University and astronomy are represented.

D. Tangible demonstration of the University's commitment to stewardship

Annual operating costs for stewardship alone are \$12M, the majority of which is covered by extramural and non-general funds generated by the University. In addition, the University provides world-class global network connectivity for all Maunakea Observatories so that the data collected on the mountain can be shared with researchers and students at institutions around the world. Under the new management regime being recommended, absent other sources of revenue because of the uncertainty created about future access and use, a substantial investment by the State will be required to support a new stewardship program that would have jurisdiction for significantly more land than the current program.

The fruits of the University's efforts to improve its stewardship have been recognized by the community. In 2017 UH received the Pualu Award from the Kona-Kohala Chamber of Commerce for its education and outreach. In 2017 UH received a Preservation Commendation Award from the Historic Hawai'i Foundation for its interpretative efforts. And in 2016 UH received the Pualu Award for Environmental Awareness from the Kona-Kohala Chamber of Commerce. Finally, and perhaps most notably, in 2011 the Wekiu Bug was removed from endangered species candidate list because of the University's ecosystem restoration efforts.

In closing, the University should be judged by our complete record which shows substantial improvement over time across multiple dimensions. Our commitment has been reliably demonstrated in time, effort, and resources committed by us over the years in the exercise of our stewardship responsibilities for the privilege of access we have. And as a result, as reported by many in the Independent Evaluation **"...the cultural and natural resources on the state conservation lands on Mauna Kea are some of the best managed and protected lands in the entire State"** and we have a world class research enterprise Hawai'i can be proud of.



HB2024 HD1 SD1
RELATING TO MAUNA KEA
Senate Committee on Ways and Means
April 5, 2022

April 5, 2022 10:30 a.m. CR211 & Videoconference

The Office of Hawaiian Affairs (OHA) **OPPOSES HB2024 HD1 SD1**, intending to establish the Mauna Kea Stewardship and Oversight Authority (“MKSOA”), produced from the work and report of the Mauna Kea Working Group (“MKWG”), created by House Resolution No. 33, H.D. 1, (Regular Session of 2021), where OHA was named as one of fifteen MKWG members.

Governance. HB2024 HD1 SD1 as amended indicates that the authority previously replaces the role held by the University of Hawaii (“UH”), Board of Regents (“UHBOR”) and President, while placing the authority within the University of Hawai‘i, Hilo, for administrative purposes¹. This “replacement” of authority is confusing, conflicting and counterintuitive. The SD1 is silent on the role of the board of land and natural resources (“BLNR”) and the department of land and natural resources (“DLNR”)--the state entity responsible for the state of Hawai‘i lands, including ceded lands and public trust lands. Regardless, the mismanagement of the mauna by the UH is long standing and well documented, such actions that were governed by the President and UHBOR. To now place the MKSOA under the same entity that has not put the mauna at the center of its fiduciary duty and care, is not good governance, at a minimum, and pono ‘ole (unjust).

Composition of the MKSOA. Standing Committee Report 99-22 and HB2024 HD, refer to the consideration for adding a representative of the Maunakea Observatories (“MO”) and University of Hawai‘i (“UH”) President (or designee), respectively, and is clearly in SD1. The placement of the MO and UH seats, advantages and privileges, two specific users of Mauna a Wākea that have not explicitly demonstrated a fundamental operating principal of Mauna Aloha – understanding the reciprocal value of the mauna and a long-term commitment to maintaining the integrity of Mauna a Wākea. Perhaps over time with intentional and explicit policies and activities, either or both MO and UH, will demonstrate the principles of Mauna Aloha, but not at this time, at the inception and formation of the MKSOA.

Selection Process of Two Members. Selection of two members of the MKSOA² by the senate president and speaker of the house of representatives, and the governor’s disregard of the list, if fewer than three names are submitted, disregards collaborative, community based processes that engage the native Hawaiian community, stakeholders and Hawai‘i Island residents as a whole.

¹ Page 3, lines 16-19

² Page 5, lines 7-12



HB2024 HD1 SD1
RELATING TO MAUNA KEA
Senate Committee on Ways and Means
April 5, 2022

Lease Terms. The SD1 speaks only of a supermajority vote for approval of lease terms or renewals that extend beyond 65-years³; it does not speak of the impact of such lease terms beyond 65-years as alienating actions. Extension of lease terms, regardless of lessee is an action that alienates ceded lands and related public land trust lands from Native Hawaiian claims.

Astronomy Development; Framework - Consultation. The directive that the authority “shall” (vs. “may”) develop a framework for astronomy development on Mauna Kea, bypasses the National Historic Preservation Act, Section 106, requirement to consult with Native Hawaiian organizations and communities when undertaking anything that may affect historical properties, lands with religious or cultural significance. Consultation regarding any activities occurring on Mauna Kea, including astronomy development, must be initiated and maintained.

Established by our state’s Constitution,⁴ the Office of Hawaiian Affairs (“OHA”) is a semi-autonomous agency of the State of Hawai’i mandated to better the conditions of Native Hawaiians. Guided by a board of nine publicly elected trustees (“Trustees”), all of whom are currently Native Hawaiian, OHA fulfills its mandate through advocacy, research, community engagement, land management, and the funding of community programs. Hawai’i state law recognizes OHA as the principal public agency in the state responsible for the performance, development, and coordination of programs and activities relating to Native Hawaiians.⁵ Furthermore, state law directs OHA to advocate on behalf of Native Hawaiians;⁶ to advise and inform federal officials about Native Hawaiian programs; and to coordinate activities relating to Native Hawaiians.⁷

³ Page 17, lines 3-6

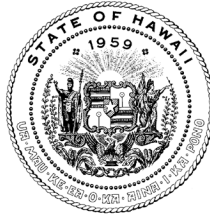
⁴ HAW. CONST., art. XII, §5 (1978).

⁵ Haw. Rev. Stat. § 10-3(3).

⁶ Haw. Rev. Stat. § 10-3(4).

⁷ Haw. Rev. Stat. § 10-6(a)(4).

DAVID Y. IGE
GOVERNOR OF HAWAII



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CHAIRPERSON
BOARD OF LAND AND NATURAL RESOURCES
COMMISSION ON WATER RESOURCE MANAGEMENT

ROBERT K. MASUDA
FIRST DEPUTY

M. KALEO MANUEL
DEPUTY DIRECTOR - WATER

AQUATIC RESOURCES
BOATING AND OCEAN RECREATION
BUREAU OF CONVEYANCES
COMMISSION ON WATER RESOURCE MANAGEMENT
CONSERVATION AND COASTAL LANDS
CONSERVATION AND RESOURCES ENFORCEMENT
ENGINEERING
FORESTRY AND WILDLIFE
HISTORIC PRESERVATION
KAHOOLAWE ISLAND RESERVE COMMISSION
LAND
STATE PARKS

Testimony of
SUZANNE D. CASE
Chairperson

Before the Senate Committee on
WAYS AND MEANS

Tuesday, April 5, 2022
10:30 a.m.

State Capitol, Conference Room 211 & Videoconference

In consideration of
HOUSE BILL 2024, HOUSE DRAFT 1, SENATE DRAFT 1
RELATING TO MAUNA KEA

House Bill 2024, House Draft 1, Senate Draft 1 proposes to: 1) Establish the Mauna Kea Stewardship and Oversight Authority (Authority) as the principle authority for management of state-managed lands on Mauna Kea, in conjunction with the Department of Land and Natural Resources; 2) Require the Authority to manage land uses; human activities, uses, and access; 3) Authorize the Authority to develop a framework to allow astronomy development on Mauna Kea; 4) Authorize the Authority to establish advisory groups; 6) Authorize the Authority to limit certain commercial uses and activities on Mauna Kea; 7) Require the Authority to allow the University of Hawaii a certain amount of viewing time at the telescopes; 8) Provide certain restrictions on leases; 9) Require timely decommissioning of certain telescopes; 10) Require an application and fee for all recreational users of Mauna Kea; 11) Establish the Mauna Kea Management Special Fund; and 11) Require an audit of the Mauna Kea Stewardship and Oversight Authority. The measure would revert management to the University of Hawaii Board of Regents and President if the audit finds the Authority unfit to continue. **The Department of Land and Natural Resources (Department) appreciates that the measure has been amended to better reflect complexities of managing lands on Mauna Kea, but finds that there is already a strong management framework in place, and respectfully opposes this measure.**

The Department does not concur with the statement in SECTION 1 paragraph 1 of the measure that Mauna Kea represents *a rigid dichotomy between culture and science*, nor the proposition in paragraph two that there is “mismanagement” that needs to be reconciled. We would like to offer this Committee the following information for background and context:

Jurisdiction

The proposed Authority shall have oversight jurisdiction of lands that are state-managed lands above the nine thousand two hundred foot elevation line on Mauna Kea, inclusive of Pu‘u Huluhulu to the summit of Mauna Kea. The authority shall have jurisdiction over the science reserve on Mauna Kea.

The Department managed areas in the summit region and upper slopes of Maunakea are the Mauna Kea Natural Area Reserve and the Mauna Kea Forest Reserve. The University of Hawai‘i (UH) managed areas are the Maunakea Science Reserve, the Halepōhaku Midlevel Facilities, and the Maunakea Access Road between Halepōhaku and the summit.

Mauna Kea Forest Reserve: The Forest Reserve encompasses 52,500 acres and is under the jurisdiction of DLNR’s Division of Forestry and Wildlife (DOFAW). The māmane forest here is critical habitat for the federally listed palila.

Mauna Kea Ice Age Natural Area Reserve: The 2,033-acre reserve was created in 1981. It is managed by DOFAW’s Natural Area Reserve System. Among its unique geological and cultural features are the Keanakakoi adze quarry, Lake Waiau, and Pu‘u Pōhaku. The Mauna Kea NAR is bounded by the Science Reserve and the Mauna Kea Forest Reserve.

The Maunakea Science Reserve is an 11,288-acre State-owned site leased by the University of Hawai‘i under General Lease S-4191, with day-to-day management delegated by the Board of Regents to the Center for Maunakea Stewardship (CMS).

The Maunakea Science Reserve contains the 525-acre Astronomy Precinct, most land within a 2.5-mile radius of the site of the UH 2.2-m telescope – in effect, all land above 3700 meters (12,139 feet) in elevation except for a pie-shaped wedge set aside as the Mauna Kea Ice Age Natural Reserve.

The Maunakea Science Reserve contains most of the natural and cultural resources on Mauna Kea; most of it contains no astronomy, road, or building improvements.

Halepōhaku is a 19.3-acre State-owned parcel below the summit region at 9,300 feet elevation leased to UH through 2041 under General Lease No. S-5529, which describes the character of use as “premises leased to be used solely for permanent mid-level facilities, a construction camp, an information station as well as existing facilities purposes.” It is the site of the Onizuka Center for International Astronomy (Halepōhaku Mid-Level Facilities).

The portions of the **Summit Access Road** that extend from Halepōhaku to the boundary of the Science Reserve is also under UH management. This includes a 400-yard corridor on either side of the road, excluding those areas within the adjacent Mauna Kea Ice Age Natural Area Reserve.

The Department notes that the lease for the Maunakea Science Reserve expires on December 31, 2033. Discussions have begun for a new land authorization; the current preferred alternative is to

issue a new land authorization for a reduced area including the astronomy precinct access road and Halepōhaku, effectively withdrawing 10,000 acres from the science reserve and returning them to Department management.

The Ige Administration is in active discussions about withdrawing the unimproved 10,000 acres from the UH Science Reserve lease and returning it to the Department.

Management

The measure states that the Authority shall have a transition period of three years beginning July 1, 2023; provided that all of the initial members have been confirmed by the senate; provided further that the initial authority members elect a chairperson, to assume management and oversight of Mauna Kea lands, and the authority shall develop a management plan to govern land uses, human activities, uses, and access, including permitted uses for frequent and seasonal users; stewardship; education; research; disposition; and overall operations.

Department Management

The Department's multi-faceted management responsibilities are shared by six primary divisions and offices in collaboration with UH:

DOFAW manages the Mauna Kea Forest Reserve, as well as outdoor recreation programs, trail and access systems, and the hunting program.

The Land Division is charged with the management and enforcement of leases, permits, executive orders, and other encumbrances.

The Office of Conservation and Coastal Lands (OCCL) is responsible for the permitting and regulating of land uses in the Conservation District. Conservation District Use Applications are processed by OCCL, although the Board of Land and Natural Resources has the final authority to modify, grant, or deny permits. OCCL is also responsible for investigating potential land use violations and permit violations.

The State Historic Preservation Division (SHPD) is charged with preserving and protecting historically and culturally significant properties as outlined in the National Historic Preservation Act, the Statewide Historic Preservation Plan, and Chapter 6E of the Hawai'i Revised Statutes. SHPD-managed programs include: Statewide Inventory of Historic Properties, Burial Sites Program, Certified Local Government Program, National Main Street Program, Historic Preserves Program, Information and Education Program, Interagency Archaeological Services, and maintenance of the Hawai'i and National Register of Historic Places. SHPD also reviews proposed development projects to ensure minimal effects of change on historic and cultural assets.

The Hawai'i Island Burial Council (HBC) falls under the jurisdiction of SHPD, and is responsible for the management of all human remains over fifty years old. Burial protection plans and burial treatment plans on Maunakea are required to be done in consultation with the HBC.

The Division of Conservation and Resource Enforcement (DOARE) is responsible for enforcing all laws and rules that apply to lands that are managed by the Department. Pursuant to Act 226 Session Laws of Hawai'i 1981, DOARE's enforcement officers have full police powers to execute all state laws and rules within all state lands.

UH Management

In August 2020 the UH Board of Regents approved an internal reorganization of the management structure for UH-managed lands. The UH management structure encompasses:

The Center for Maunakea Stewardship (CMS), which is the lead organization for the management of UH-managed lands on Maunakea. It is responsible for the strategic implementation of stewardship programs, planning, permitting, compliance oversight, outreach, and research and academic coordination, as well as for fiscal planning and management. CMS will report directly to the Chancellor.

Stewardship Programs oversees the operations of the stewardship and support service operations, including Maunakea Observatories Support Services (MKSS), cultural and natural resource programs, the Ranger program, and permitting and compliance.

Cultural, community, and stakeholder advisory groups are integrated into strategic planning and policy discussion. These include:

The Maunakea Management Board, a body comprised of seven members of the community who are nominated by the UH Hilo Chancellor and approved by the UH Board of Regents.

The Kahu Kū Mauna Council advises the Board and Chancellor on cultural matters and issues.

The Maunakea Observatories Partners Group was established to provide input into decisions made by the University.

The University's **Institute for Astronomy (IfA)** takes the lead in coordinating scientific cooperation and partnerships. **The `Imiloa Astronomy Center** now takes the lead in cultural-based education.

The Board of Land and Natural Resources approved a Comprehensive Management Plan (CMP) for UH-managed lands on Mauna Kea on April 9, 2009. The CMP included management actions of previous management documents, including the 1995 Management Plan for UH Management Areas and the 2000 Mauna Kea Master Plan.

The CMP provides a framework and management guidelines ranging from the preservation of cultural and natural resource to the management of the built environment, construction activities, and access to outreach and education.

The Maunakea CMP contains 106 management actions and associated reporting requirements. Four Resource subplans were approved by BLNR on March 25, 2010: the *Natural Resources*

Management Plan; Cultural Resource Management Plan; Public Access Plan; and the Decommissioning Plan.

Audit Issues Addressed

The Department notes that a 1998 audit by the State Office of the Auditor found significant deficiencies in the management of Mauna Kea by both the Department and UH. Specifically, the audit found that the University appeared to place a higher value on developing observatories than on protecting Mauna Kea's natural and cultural resources, and that the Department was not engaged in effective monitoring and enforcement of permitting requirements.

A 2005 follow-up audit found that UH's Master Plan and new management structure addressed many of the 1998 concerns but found that the lack of administrative rule-making authority was limiting UH's ability to manage resources. The follow-up also noted that the Department had tightened permit approval conditions, but that the terms of the leases and subleases remained dated. The follow-up also recommended that the Department better monitor the University for permit compliance, and that the Department's divisions better coordinate its efforts to protect Mauna Kea's natural resources.

A second follow-up audit, in 2014, found that UH's CMP and associated subplans addressed many of the previous concerns. The auditor also recognized that contractual terms had prevented the Department and UH from updating existing lease and sublease terms, and that future leases would incorporate the auditor's earlier recommendations. The lack of administrative rules remained a significant concern.

A final follow-up audit, in 2017, noted that the adoption of administrative rules had not yet been implemented. The UH Board of Regents adopted rules on November 6, 2019. Governor David Ige approved and signed the rules in January 2020, and they went into effect on January 23, 2020.

2020 Independent Evaluation of Management

In May 2020 the Department contracted with Ku`iwalu Consulting to conduct an independent evaluation of the UH's compliance with the CMP. The evaluation was intended to provide the Department and the Board of Land and Natural Resources with relevant information, including community input, into whether Mauna Kea was being effectively managed. Ku`iwalu Consulting submitted its final report on December 2020. The following is taken from the Executive Summary of the report:

The Report consists of three assessments. First, OMKM¹'s self-assessment of their implementation of the CMP. Second, the public's assessment, based upon the comments we received. And third, the independent evaluation utilizing the logic model approach that took into consideration UH's self-assessment, the public input, the timeliness of OMKM's implementation of Management Actions (MA), and whether UH's implementation of the 103 MAs achieved the desired outcomes as set forth in the CMP.

¹ The Center for Maunakea Stewardship assumed the duties and responsibilities of OMKM, the Office of Maunakea Management, in 2020.

With respect to UH's self-assessment, the *OMKM 2020 Annual Report to the Board of Land and Natural Resources, Status of the Implementation of the Mauna Kea Comprehensive Management Plan* (OMKM 2020 Annual Report to BLNR) essentially concludes that "most management actions have either been implemented or are in progress." For the most part, the UH Management Entities believe they have made considerable progress in effectively implementing the CMP MAs and are, in fact, better managing and protecting the cultural and natural resources.

However, there is a difference of opinion between UH-Hilo Management Entities (UH-Hilo Entities) and the larger UH System with respect to the public's perception of how effective OMKM is in managing the state conservation lands at Mauna Kea. Accordingly, "in response to past criticisms" the UH Board of Regents (BOR) adopted Resolution 19-03 to take timely action to comply with the management plans, including cultural education and community outreach, decommissioning, and reorganization and restructuring the UH governance structure in their management of Mauna Kea.

The public's assessment of how effectively UH has implemented the CMP has primarily varied depending on whether they are in favor or opposition of telescope development on Mauna Kea. Those who support existing and future telescope development on Mauna Kea believe that OMKM has adequately implemented the CMP MAs to preserve and protect the cultural and natural resources on Mauna Kea. For those who do not support continued telescope development on Mauna Kea beyond 2033, the expiration of the existing state lease, they believe that UH continues to mismanage Mauna Kea as concluded in the 1998 State Auditor's Report. In particular, those in opposition believe that UH continues to advocate telescope development over the protection and preservation of the resources.

Finally, the independent evaluation found that OMKM has made progress in implementing most of the CMP MAs, and in many regards OMKM is effectively managing the activities and uses on Mauna Kea to better protect the natural and cultural resources. We heard many comments that the cultural and natural resources on the state conservation lands on Mauna Kea are some of the best managed and protected lands in the entire State. The area is clear of trash, the invasive species are being removed not only by OMKM but volunteer groups, and the OMKM Rangers to ensure public safety on Mauna Kea.

Astronomy development

The measure proposes that the Authority shall develop a framework for astronomy development on Mauna Kea that may include limitations on the number of astronomy facilities or an astronomy facility footprint limitation; provided that in establishing a framework to control astronomy development on Mauna Kea, the authority shall establish a plan to return the Mauna Kea lands above nine thousand two hundred feet elevation to their natural state at such time that ground-based observatories lose their academic or research value.

There are currently eleven active observatories in the Maunakea Science Reserve: nine optical/infrared observatories and three radio observatories on the upper summit, Kūkahau'ula,

and one radio observatory in the lower summit region. A permit has been issued for one optical / infrared observatory, the Thirty Meter Telescope, for the northern plateau in the Maunakea Science Reserve.

Two telescopes are in the process of being decommissioned. The Board of Land and Natural Resources approved the decommissioning plan for the Caltech Submillimeter Observatory (CSO) in January 2022. Work is scheduled to begin in the summer of 2022 and completed in the fall. Monitoring of the restoration site will continue for three years. The University of Hawai'i at Hilo's 0.9-m telescope, Hōkū Ke'a, is also non-operational. The University has filed a Notice of Intent to Decommission this telescope.

The University's Board of Regents approved a new Master Plan, E Ō I Nā Leo, in January 2022. It contains a commitment to a maximum of nine summit astronomy sites by December 31, 2033. It also contains a commitment that "Astronomy Site 13" will be the last new site developed in the Science Reserve. Decommissioning of observatories will include restoring the site to its natural state.

Conclusion

The Department appreciates all the time and effort of the Mauna Kea Working Group in 2021 focused on building bridges through sharing of diverse perspectives.

The Department notes that the resource management plans, administrative rules, and administrative framework outlined above have been developed and refined in the twenty-four years since the 1998 audit. We find that the State-managed lands on Mauna Kea are among the most comprehensively and well-managed in Hawai'i, as noted in the Kui'walu Independent Evaluation .

We are concerned that it is not realistic to replace the existing framework with one management plan, under one principle Authority, in a manner that will improve management on Mauna Kea. We are concerned that the management of Mauna Kea's cultural and natural resources and the success of Mauna Kea's locally and globally significant astronomy will suffer as a result. While no doubt well-intentioned, we are concerned that House Bill 2024 may further divide rather than unite our community.

Thank you for the opportunity to comment on this measure.

DAVID Y. IGE
GOVERNOR



CRAIG K. HIRAI
DIRECTOR

GLORIA CHANG
DEPUTY DIRECTOR

STATE OF HAWAII
DEPARTMENT OF BUDGET AND FINANCE
P.O. BOX 150
HONOLULU, HAWAII 96810-0150

EMPLOYEES' RETIREMENT SYSTEM
HAWAII EMPLOYER-UNION HEALTH BENEFITS TRUST FUND
OFFICE OF THE PUBLIC DEFENDER

ADMINISTRATIVE AND RESEARCH OFFICE
BUDGET, PROGRAM PLANNING AND
MANAGEMENT DIVISION
FINANCIAL ADMINISTRATION DIVISION
OFFICE OF FEDERAL AWARDS MANAGEMENT (OFAM)

WRITTEN ONLY
TESTIMONY BY CRAIG K. HIRAI
DIRECTOR, DEPARTMENT OF BUDGET AND FINANCE
TO THE SENATE COMMITTEE ON WAYS AND MEANS
ON
HOUSE BILL NO. 2024, H.D. 1, S.D. 1

April 5, 2022
10:30 a.m.
Room 211 and Videoconference

RELATING TO MAUNA KEA

The Department of Budget and Finance (B&F) offers comments on this bill.

House Bill (H.B.) No. 2024, H.D. 1, S.D. 1: establishes the Mauna Kea Stewardship and Oversight Authority (MKSOA) as the sole authority for the management of State-managed lands on Mauna Kea; creates the Mauna Kea Management Special Fund that would generate revenues through legislative appropriations, moneys from supplemental sources, grants, donations, and earned interest; authorizes the Director of Finance to issue an unspecified amount of general obligation bonds; repeals the Mauna Kea Lands Management Special Fund; appropriates \$12,000,000 in general funds for FY 23 for startup costs for the MKSOA; and appropriates an unspecified amount of general funds and establishes one full-time equivalent position in FY 23 for the MKSOA.

As a matter of general policy, B&F does not support the creation of any special fund which does not meet the requirements of Section 37-52.3, HRS. Special funds should: 1) serve a need as demonstrated by the purpose, scope of work, and an

explanation why the program cannot be implemented successfully under the general fund appropriation process; 2) reflect a clear nexus between the benefits sought and charges made upon the users or beneficiaries or a clear link between the program and the sources of revenue; 3) provide an appropriate means of financing for the program or activity; and 4) demonstrate the capacity to be financially self-sustaining. Regarding H.B. No. 2024, H.D. 1, S.D. 1, it is difficult to determine whether the proposed special fund would be self-sustaining.

In addition, B&F notes that, with respect to the general fund appropriation in this bill, the federal Coronavirus Response and Relief Supplemental Appropriations Act requires that states receiving Elementary and Secondary School Emergency Relief (ESSER) II funds and Governor's Emergency Education Relief II funds must maintain state support for:

- Elementary and secondary education in FY 22 at least at the proportional level of the state's support for elementary and secondary education relative to the state's overall spending, averaged over FYs 17, 18 and 19; and
- Higher education in FY 22 at least at the proportional level of the state's support for higher education relative to the state's overall spending, averaged over FYs 17, 18 and 19.

Further, the federal American Rescue Plan (ARP) Act requires that states receiving ARP ESSER funds must maintain state support for:

- Elementary and secondary education in FY 22 and FY 23 at least at the proportional level of the state's support for elementary and secondary education relative to the state's overall spending, averaged over FYs 17, 18 and 19; and

- Higher education in FY 22 and FY 23 at least at the proportional level of the state's support for higher education relative to the state's overall spending, averaged over FYs 17, 18 and 19.

The U.S. Department of Education has issued rules governing how these maintenance of effort (MOE) requirements are to be administered. B&F will be working with the money committees of the Legislature to ensure that the State of Hawai'i complies with these ESSER MOE requirements.

Thank you for your consideration of our comments.

Center for Hawaiian Sovereignty Studies
46-255 Kahuhipa St. Suite 1205
Kane'ohe, HI 96744
(808) 247-7942

Kenneth R. Conklin, Ph.D. Executive Director
e-mail Ken_Conklin@yahoo.com
Unity, Equality, Aloha for all



To: SENATE COMMITTEE ON WAYS AND MEANS

For hearing Tuesday April 5, 2022

Re: SB 2024 HD1, SD1 RELATING TO MAUNA KEA.

Establishes the Mauna Kea Stewardship and Oversight Authority as the principal authority for management of state- managed lands above the 9,200 feet elevation line on Mauna Kea, in conjunction with the Department of Land and Natural Resources. Requires the authority to manage land uses; human activities, uses, and access; stewardship; education; research; disposition; and overall operations. Authorizes the Authority to develop a framework to allow astronomy development on Mauna Kea. Authorizes the Authority to establish advisory groups. Allows the Authority to limit certain commercial use and activities on Mauna Kea. Requires the Authority to allow the University of Hawaii a certain amount of viewing time at the telescopes. Provides certain restrictions on leases. Requires the timely decommissioning of certain telescopes. Requires an application and fee for all recreational users of

Mauna Kea. Establishes the Mauna Kea Management Special Fund. Requires an audit of the Mauna Kea Stewardship and Oversight Authority. Reverts management to the University of Hawaii Board of Regents and President if the audit finds the Authority unfit to continue. Appropriates funds. Effective 1/1/2055. (SD1)

TESTIMONY IN OPPOSITION

The best thing to do with HB2024 is to trash it. The bill is a chaotic mix of conflicting concepts serving no discernible purpose other than to incorporate a few concerns of competing interest groups. Do nothing this year regarding Mauna Kea.

But if this legislature is so captivated by the sunken cost of its investment in this bill up to now that you are simply unable to write it off as a total loss (sort of like the Honolulu rail project), then the second-best thing to do is to take the membership of the Stewardship Authority envisioned in the current draft of this bill and convert that into a new Working Group to begin all over again with the writing of a new bill to be introduced next year.

Hawaiian culture places strong weight on using genealogy as a factor in judging credibility and moral legitimacy. The genealogy of this bill shows that it was conceived in a cesspool of racial grievance, self-righteous religious zealotry, and uncompromising hostility toward UH in general and astronomy in particular.

This bill was written through a dishonest, flat-out racist process that created a Working Group heavily stacked with race-partisan anti-telescope activists. So of course that group wrote a bill whose original text called for a Mauna Kea Stewardship Authority [governing group] heavily stacked with at least 5 out of 9 members mandated to be ethnic Hawaiians (who are about 20% of Hawaii's population); and, according to a racial preference explicitly in that bill, probably 7 or 8 of the 9 members would actually be ethnic Hawaiians. In addition, the

original text of the bill called for UH and the Institute for Astronomy to be completely excluded from the Stewardship Authority. All drafts, including the latest one, envision a future when the upper portion of the mountain will be returned to a pristine condition with no telescopes allowed.

Please review the testimony I submitted for the triple-committee hearing (hurry, hurry, hurry) in the House on Saturday, February 19, 2022; and also to the Senate Committee on Higher Education on Tuesday, March 22, 2022: That testimony consists of 13 pages beginning about 20% of the way down the file of all testimony to HRE at

https://www.capitol.hawaii.gov/Session2022/Testimony/HB2024_HD1_TESTIMONY_HRE_03-22-22_.PDF

My testimony focused on the 4 Rs of HB2024:

Racism: Unconstitutional racial stacking of the Working Group and Stewardship Authority).

Religion: ESTABLISHMENT of ancient Hawaiian religion as basis for state government decision, violating the Constitution's First Amendment "Establishment Clause" -- despite the fact that that religion was abolished by the Kingdom's 4 top native leaders acting jointly in 1819, the year before the Christian missionaries arrived. Those leaders were King Liholiho Kamehameha II; his mother Queen Keopiolani who was Kamehameha's sacred wife with highest mana in all Hawaii; regent Queen Ka'ahumanu who was Kamehameha's "favorite" wife; and Kahuna Nui (High Priest Hewahewa. Nearly all ethnic Hawaiians today are Christians; very few actually worship the ancient gods who were overthrown by their ancestors in 1819, but instead today's activists pretend to believe in the ancient religion and stage public chants and prayers to use the ancient religion as a form of street theatre, as a political ploy to gain public sympathy and deference from gullible politicians and media.

Retrogression: Astronomy provides safe high-status jobs with good salaries for intelligent people of all races. Getting rid of telescopes on Mauna Kea would give a victory to anti-science troglodytes and damage our economy).

Re-education: The bill would give ethnic Hawaiian propagandists the right to use Mauna Kea the way they currently use Iolani Palace, as a prop to brainwash visitors to believe that the idealized version of Hawaiian culture they are being told about is actually true; to inculcate an animist religious viewpoint; and to inflict a victimhood analysis of Hawaii's history).

The best thing to do with HB2024 is to trash it. The bill is a chaotic mix of conflicting concepts serving no discernible purpose other than to incorporate a few concerns of competing interest groups. Do nothing this year regarding Mauna Kea.

But if this legislature is so captivated by the sunken cost of its investment in this bill up to now that you are simply unable to write it off as a total loss (sort of like the Honolulu rail project), then the second-best thing to do is to take the membership of the Stewardship Authority envisioned in the current draft of this bill and convert that into a new Working Group to begin all over again with the writing of a new bill to be introduced next year.

HB-2024-SD-1

Submitted on: 4/1/2022 5:19:01 PM

Testimony for WAM on 4/5/2022 10:30:00 AM

Submitted By	Organization	Testifier Position	Testify
Clarence Ching	Testifying for MAUNA KEA HUI	Oppose	Written Testimony Only

Comments:

This constitutes TESTIMONY IN OPPOSITION to HB2024 HD1 "RELATING TO MAUNA KEA" - as it relates to myself, CLARENCE "KU" CHING AND the following - MARY MAXINE KAHAULELIO, BILLY FREITAS, CINDY FREITAS, and members of The Mauna Kea Hui, specifically KEALOHA PISCIOTTA (and MAUNA KEA ANAINA HOU), PAUL K. NEVES, and DEBORAH WARD.

While the bill references "Mauna a Wakea," it conjures up a lot of emotion for Mauna Kea and the Lahui (Hawaiian Nation) - if the Bill becomes law, its actual outcome may NOT be as it seems!

While the latest HB2024 HD1 draft appears on its face to be a very pro-Hawaiian and pro-Mauna Kea activity, there are major issues that are hidden between its lines! For example, in its present iteration, while the main impetus is touted as being pro-Hawaiian, and a number of Hawaiian "Stewards" is being seated, the process, including (Governor) nominations and appointments of "non-beneficiary" interests (not being beneficiaries), is far from being Hawaiian! (Therefor, a nominator may have it's own special interests in mind, that may NOT necessarily be that of the beneficiary class in common!) So if HB2024 HD1 is enacted, Mauna Kea being a part of the Public Trust, what then will be the Entity that will retain the obligation of maintaining the fiduciary duties and responsibilities that the "State of Hawaii" Trustee is charged with? Will this new entity be charged with the fiduciary duties and responsibilities of the Trustee? Or will the duties and responsibilities be bifurcated, being retained by DLNR/BLNR (as it is now) AND the ownership, control and management to be in the new entity? Will this discrepancy "violate the Public Trust?"

OR, if there are any benefits that may accumulate in this new entity - How will those benefits transfer to the Beneficiaries of the Public Trust (as is required by the Law of Trusts)? In Ching vs. Case (<https://law.justia.com/cases/hawaii/supreme-court/2019/scap-18-0000432.html>), the Hawai'i Supreme Court mandates that the Public Trust must have benefits, AND the benefits

"must" go to the beneficiaries! This Bill DOES NOT provide for any benefits, or any procedure for such benefits to transfer to the beneficiaries. Will this discrepancy "violate the Public Trust?"

On the other hand, Will this new entity be charged with the duties and responsibilities of protecting the Trust's resources for the benefit of the Public Trust's beneficiaries? If so - Where does it say that it does? Bottom line - There are elements in the Bill that ARE NOT consistent with maintaining the Public Trust (in other words, it violates the Public Trust)! So, YES, the Bill is inconsistent with the requirements of being a Public Trust. Will this discrepancy "violate the Public Trust?"

Lastly, as long time Mauna Kea cultural and traditional Practitioners, we would like to affirm that Mauna Kea IS the traditional name of our Mauna. It is important to protect and maintain the integrity of the traditional place names of our ancestors. The term "Kea" has deep and profound meaning that doesn't simply translate to the Astronomers' definition of it as "White Mountain" and while we respect the reference to "Mauna a Wakea," we must continue to be aware of its traditional name. Queen Liliuokalani on March 30, 1908 wrote about Mauna Kea (see Queens song book). She didn't refer to it as Mauna a Wakea. So if the Queen called it Mauna Kea, shouldn't it be good enough for us to carry on this sacred name? We know the TMK for Mauna Kea but what would the TMK for Mauna a Wakea be? Shall we now change the names of Haleakala, Mauna Loa, Kilauea, Hualalai etc.? The place names help us navigate back to our genealogy and sense of place and when we change our place names it changes our path home — even our Pacific Brothers and Sisters recognize our Mauna as Mauna Kea and have similar place names as well. That is why so many came to stand with us on the Mauna - as they continue to remember it's name and its sacredness.

In conclusion - HB2014 HD1 violates the Admission Act (that created and initiated the Public Trust) and the Constitution of the State of Hawaii!

Therefore - we stand in OPPOSITION to HB2024 HD1!

/s/ Clarence "Ku" Ching on Behalf of the following Mauna Kea Hui and Kia'i Mauna:

/s/ Kealoha Pisciotta and Mauna Kea Anaina Hou

/s/ Kumu Hula Paul K. Neves

/s/ Deborah Ward

/s/ Kupuna Maxine Kahualio

/s/ Cindy Freitas

/s/ Billy Freitas

TESTIMONY
HB 2024 HD1 SD1, RELATING TO MAUNA KEA
SENATE COMMITTEE WAYS & MEANS
APRIL 5, 2022
FROM
MAUNA KEA WORKING GROUP MEMBERS
Dr. Pualani Kanahale, Dr. Noe Noe Wong-Wilson, Jocelyn M. Doane, Shane Akoni Nelsen,
Lanakila Mangauil

SUPPORT WITH RESERVATIONS AND COMMENTS

Aloha Chair Donovan Dela Cruz, Vice Chair Gilbert Keith-Agaran and members of the committee:

Mahalo for considering HB 2024 HD1 SD1. Please consider the comments and suggested amendments which are offered by members of the Mauna Kea Working Group as follows:

General Assessment: The SD1 represents a marginal but meaningful improvement over the current management structure for Mauna Kea. The SD1 maintains BLNR as the landowner with final approval authority over land disposition decisions. UH - the Board of Regents and President - would effectively be replaced as the Master Lessee for the state-managed Mauna Kea lands by a new Mauna Kea Stewardship and Oversight Authority which would be placed within UH Hilo for administrative purposes. **Would this legislation affect UH's rights pursuant to the existing Master Lease agreement between DLNR and UH, which currently expires in 2033?**

Recognition of Kumu Kānāwai, Hawaiian laws of nature and Mauna a Wākea name: The Mauna Kea Working group recognizes the importance of establishing and recognizing a Hawaiian cultural foundation for the management of Mauna Kea. For this reason, the four Kumu Kanawai were inserted into the report and in HD1. They are

- (1) Ho'okiki Kanawai - the edict of continuum, in which flows of magma move, water basins flow; clouds move; air and ocean currents are active; and islands continue to be shaped, formed and conditioned naturally.
- (2) Kua'ā Kanawai - the edict of gestating landscapes, in which craters erupt; marshes are active; coral heads are in season; and wet forest produces.
- (3) Kai'okia Kanawai - the edict of natural boundaries, including the path of the sun, moon and stars from north, south, east and west; and vertical and horizontal divisions of land, ocean and space above; and
- (4) Kihō'ihō'i Kanawai - the edict of regeneration, that nature will fix itself, including immediate restoration of landscape after a flood, lava flow, windstorm, and fire.

Further, the recommended name Mauna a Wākea for the Authority is not intended to officially change the name of the mauna. This name was chosen because it reflects the genealogy of

the mauna, recognized in Hawaiian mo'olelo (stories) and mele/oli (chants and songs) as born of the union of Papa and Wākea, the earth and sky. It is also recognized that Mauna a Wākea is one of a number of names which refers to Maunakea or Mauna Kea. The bill does recognize the various names for Mauna Kea. **It is requested that the Kumu Kānāwai be re-inserted into the bill and could be included in Section 7 Advisory Groups: Native Hawaiian culture.**

Mauna Kea stewardship and oversight authority; established. The authority is placed within the University of Hawai'i for administrative purposes.

(1) Definitions, "Mauna Kea Lands" definition: Area Jurisdiction for the Authority would be moved up to the 9,200 ft elevation level, presumably to include the currently held lease for the Hale Pōhaku and Onizuka Visitor's Center, however these facilities are slightly below that elevation. **It is recommended that the jurisdiction area be lowered to at least 8,000 ft to include those facilities as well as the surrounding pu'u which are currently heavily impacted by unabated visitor foot traffic and the nearby ATV trail which should be considered as well. In addition, there is reference to Pu'u Huluhulu (6,500ft) within the jurisdiction area which should be deleted.**

(2) The composition of the board is changed which results in the addition of a seat for Mauna Kea Observatories and the loss of a seat for an individual with expertise in Native Hawaiian traditional and customary practices (not necessarily related to Mauna Kea). Representation of community expertise on decision making authorities is an important part of the effort by the Mauna Kea Working Group to find balance. **It is humbly requested that this position be reinstated on the authority's board.**

(d) The terms of the authority members are a maximum of 12 years. **It is recommended that the terms be reduced to 3 - three-year terms for a total of 9 years or 2 – four-year terms for a total of 8 years.**

(e) The authority shall be financially self-sustaining after the first year following the transition period...

This requirement appears to be ambitious and could set up the authority for unrealistic expectations. Mauna Kea is a significant cultural, historic, and ecological treasure for Hawai'i, the Pacific and as the tallest mountain from the ocean floor, the world. While every reasonable effort should be made to manage Mauna Kea in a responsible, cultural, and environmentally sensitive way, there will be undue pressure on the potential resources to truly become self-sustaining. Mauna Kea, by its presence as a major watershed and environmental/ecological resource on Hawai'i Island and to the State of Hawai'i is a public asset and should be supported as such. There should be periodic financial audits to determine if best practices and potential use of resources are being applied appropriately. **However, this expectation and stated requirement should be deleted.**

- 4. The authority's day-to-day operations shall be led by the existing executive director of the center of mauna kea for the transition period established in section -4. The word "existing" should be removed from the description of the executive director so as not to presume an individual has tenure for the period of time indicated. The full name of the entity should be corrected as well

Section 3 Powers and responsibilities, generally. (b) (7) Decommissioning of telescopes

The SD1 includes the following language - "Timely decommission the California Institute of Technology (Caltech) Submillimeter Telescope and the University of Hawai'i, Hilo Hōkūke'a Teaching Telescope.", lines 18-20, page 9. **It is requested that the language related to the cost of decommissioning telescopes be reinserted into the bill - "(a) Any lease issued by the authority for the purposes of an astronomical observatory shall ensure that the astronomical observatory shall plan for and finance its decommissioning process on Mauna Kea and return and restore the impacted areas, to the greatest extent possible, to their pre-construction condition; provided that the authority shall determine what site restoration shall be based on, including but not limited to the protection of the natural and cultural resources on Mauna Kea and in accordance with the authority's guiding operational values and principles.**

(b) The authority shall develop a process to enforce compliance with lease requirements, including but not limited to establishing fines.

C. The authority shall establish a trust fund, special fund or other funding mechanism designated for decommissioning costs that the astronomical observatories shall be required to contribute toward as a condition of their leases; provided that the authority shall determine the required contribution." In addition, the University of Hawai'i's current plan calls for the decommissioning of 5 telescopes, two which are reflected in the current SD 1 and three more which are unnamed. **It is requested that this be reflected in the bill.**

Transition; management plan (b)

Amendments that replace "shall" with "may" for the management plan provide too much flexibility, ie. "The management plan may: (1) Be developed during the transition period; Be finalized, approved, and operational by the end of the transition period; Be updated at least every ten years...; Consider the State's energy and sustainability goals...; Incorporate indigenous management and cultural processes and values; and include an aspirational statement to acknowledge and contextualize unresolved social justice issues that underpin Mauna Kea." **It is requested that the mandatory SHALL language be restored, as these are all important requirements for the proper management of Mauna Kea.**

6. Oversight jurisdiction. (a) and (b)

As reflected in the definition of Mauna Kea Lands, the elevation line of the jurisdiction area should be consistent and is requested to be 8,000 ft, instead of 9,200 ft, to ensure inclusion of the visitor center and the surrounding pu'u, which are experiencing heavy foot traffic from visitors.

9. Access and use; restrictions; orientation; entryway (a) This section indicates that the authority MAY limit commercial use and activities of Mauna Kea lands to astronomy use and activities... (b) indicates that the authority SHALL require an application for all recreational use... **The language in (b) should be changed to MAY for consistency with the rest of the section.**

11. Lease restrictions; generally (a)(2)

“Leases (subleases) are allowable for a term longer than sixty-five years or renewal of terms that result in a total term of more than sixty-five years shall be subject to approval by a supermajority vote;”

The new Authority appears to be given broader lease extension authority under SD1 that is not currently held by UH or BLNR. **While the lease extension authority appears to be limited by BLNR’s Chapter 171 land disposition requirements, it is recommended that this language be removed to avoid conflict and confusion between the authority and the BLNR.**

Finally, PART VI, Section 9 provides that “if the auditor finds, in the report required under section -16 in section 2 of this Act, that the Mauna Kea stewardship and oversight authority is unfit to continue to serve in its stewardship and oversight role, then on December 31, 2029; (1) Parts I and II are repealed; and (2) The management authority over Mauna Kea lands...shall revert back to the University of Hawai’i board of regents and president.”

We expect every effort will be made by the new authority to meet its mission and goals set forth by this legislation. It would be expected that any auditor’s report might point out areas of success and areas where improvements could and should be addressed. Your re-consideration of this short time frame (2029) for such a determination to be made to repeal this act is strongly requested, to enable the authority to enact a firm and accountable governance and operational framework. A new sunset date of December 31, 2035, or 10 years is more appropriate, if necessary.

Mahalo nui for your consideration of these changes to strengthen the bill.



To:
Senator Donovan M. Dela Cruz, Chair
Senator Gilbert S. C. Keith-Agaran, Vice-Chair
Committee on Ways and Means

From: Maunakea Observatories

Subject: HB2024 HD1 SD1 Relating to Mauna Kea – Comments

April 5, 2022; 10:30 a.m.; Via Videoconference

Aloha Chair Dela Cruz, Vice Chair Keith-Agaran, and Members of the Committee on Ways and Means,

The undersigned Maunakea Observatories (MKO) directors would like to offer comments on HB2024 HD1 SD1, which establishes a Maunakea stewardship authority.

We strongly believe there is a vibrant and sustainable future for astronomy on Maunakea - a future based on a community model of astronomy in which relationships and partnerships between the community and astronomy thrive, upheld by the values of respect, collaboration, and inclusion.

The observatories are permitted by the state to conduct activities on Maunakea lands - public lands that are important to multiple stakeholders and of great cultural importance to the Hawaiian community. We are grateful for our privilege of observing the Universe from Maunakea. We recognize the state decides how Maunakea lands should be used and managed and we want to convey what is most important to MKO no matter which model of governance and management of Maunakea is decided upon.

We appreciate the efforts of the Senate Committee on Higher Education's responsiveness to our prior testimony. We would like to take this opportunity for further clarification and refinement of Senate Draft 1 by requesting the following amendments.

MKO's most essential need is a clear path to obtaining new land authorizations beyond 2033.

Most of the existing observatories seek to continue their scientific missions on Maunakea beyond the ending of the current leases in 2033, subject to astronomy limitations imposed by the state.

The MKOs are a collaboration of nonprofit, independent institutions supported by national and international partners and research institutions. Having a clear path to new land authorizations beyond 2033 gives our partners and funders confidence in a viable future for astronomy on Maunakea and allows them to plan for long-term funding of our efforts. These funders have injected billions of dollars into the Hawai'i economy over the 50+ year history of astronomy on Maunakea. Today, astronomy in

Hawai'i has a total economic impact to the state of approximately \$220M annually and generates approximately 1,300 jobs statewide. In addition to economic benefits, the observatories provide significant STEM education and workforce development opportunities, and we are integral, contributing members of our local communities.

Facility upgrades, investments in new instrumentation to keep our technology at the forefront of research, and long-term planning for our operations all critically depend on knowing we have a clear path to new land authorizations.

We cannot emphasize enough how essential it is to MKO that during the transition period the authority prioritizes establishing a feasible process and timeline for granting new land authorizations to existing observatories that fit within the authority's imposed limitations in a timely fashion, without triggering time-limit-driven decommissioning requirements under the existing subleases.

We ask that section -4 Transition; management plan, be amended as follows:

- Section -4(b): strengthen the requirements for the management plan:

"The management plan ~~may~~ **shall**:"

- Section -4(c): clearly state the responsibility of the authority for determining a reasonable process and timeline for obtaining new observatory land authorizations beyond 2033, with respect to the authority's limits on astronomy development:

"The authority shall **establish a feasible plan with a clearly-defined process and timeline for establishing new land authorizations for astronomical observatories beyond the current lease ending in 2033, subject to section -5.**"

We seek assurance that MKO's share of stewardship costs will be equitable and financially sustainable.

The establishment of a new entity must include comprehensive analysis and planning for determining costs and funding for the new stewardship authority. We commit to joining other stakeholders in the collective financial support of the new stewardship authority as long as it is equitable, feasible, and financially sustainable.

We ask that section -3 Powers and responsibilities, be amended as follows:

- Section -3(b)(3): add responsibility to the authority to assure lease terms and monetary consideration are equitable, feasible, and financially sustainable:

"(3) Establish a process that establishes transparency, analysis, and justification for lease terms **and monetary consideration that is equitable, feasible, and financially sustainable**"

We agree the University of Hawai'i should receive viewing time; however, we do not think the amount should be specified in the bill.

We acknowledge and support the importance of maintaining a strong astronomy program in Hawai'i through the University of Hawai'i, our state's public university, and do agree that the University of Hawai'i should receive viewing time from the Maunakea Observatories. However, we feel it is going too far to specify the percentage of viewing time in this bill. Rather, the authority, the University, and MKO should have the flexibility to come to agreement on the amount of viewing time in the lease negotiation process in which other factors may be considered as part of a comprehensive agreement that includes viewing time, lease rent, use fees, shared infrastructure funds, community benefits, and other factors.

We ask that section -9 Access and use; restrictions; orientation; entryway, be amended as follows:

- Section 9(e): remove the specification of percentage of viewing time to UH:

"...the authority shall authorize the University of Hawaii **not less than seven per cent, but up to fifteen per cent, of** viewing time at the telescopes."

Determining when telescopes should be removed and the summit returned to its natural state requires a thorough discussion including Astronomy experts and stewards of Maunakea.

MKO agrees with the basic principle that once ground-based observatories "lose their academic or research value," they should be removed from Maunakea. Requiring a "plan to return the Mauna Kea lands ... to their natural state," should be preceded by developing a set of principles and high-level criteria first. Once those principles and high-level criteria are developed, then future plans can be made by the authority and the observatories.

We ask that section -5 Astronomy development; framework, be amended as follows:

Section -5: charge the authority with developing a set of principles rather than a plan.

"...the authority may establish a ~~plan to return~~ **set of principles for returning** the Mauna Kea lands above the nine thousand two hundred feet elevation line to their natural state at such time that ground-based observatories lose their academic or research value."

We believe Astronomy's participation is important to strong collaboration in the stewardship of Maunakea.

MKO strongly supports Native Hawaiian and local community involvement in governance and management to ensure the mutual interests of the community, astronomy, and the state of Hawai'i are met.

We believe that deep knowledge of Hawai'i astronomy is essential to inform the authority's board-level strategic decisions, and the MKOs seek to be a collaborative partner in informing those decisions. We support the amendment for adding Maunakea Observatories representation on the board in Senate Draft 1.

We also support the formation of an astronomy advisory group and request the formation of it be required.

In addition, during the transition period, we feel the Mauna Kea Management Board by its current charter and composition does not serve to represent astronomy, and suggest that during the transition period, the MKO Directors serve this purpose.

We ask that section -7 *Advisory groups; Native Hawaiian culture*, be amended as follows:

- Section -7(a): strengthen the requirement to form an astronomy advisory group:

"The authority ~~may~~ **shall** establish advisory groups to advise the authority..."

- Section -7(a): utilize the MKO Directors to advise on astronomy matters during the transition period:

"...for the transitional period pursuant to section -4, the authority ~~may maintain the Maunakea Management Board~~ **shall utilize the Directors of the Maunakea Observatories** and Kahu Kū Mauna to serve this purpose."

We support protection of constitutionally-protected Native Hawaiian traditional and customary practices.

We ask that section -9 *Access and use; restrictions; orientation; entryway*, be amended as follows:

- Section -9: Clarify that Hawaiian traditional and customary practices will not be restricted, by adding the following subsection 9(f):

The authority shall take no action that unreasonably interferes with traditional and customary native Hawaiian rights, as set forth in the Hawaii State Constitution.

We believe the governing board should have a strong connection to Maunakea and the Hawai'i Island community.

We ask that section -2 *Mauna Kea stewardship and oversight authority*; established, be amended as follows:

- Section 2(b): Increase the requirement for governing members to be Hawai'i county residents:

"...provided further that ~~three~~ **six** of the eleven members of the authority shall be residents of the county of Hawaii."

Thank you for your consideration of our comments and requested amendments. We welcome the opportunity to work with you on this important issue.

Mahalo,



Director Hilton Lewis, W. M. Keck Observatory (Keck I and Keck II)



Interim Director Andy Sheinis, Canada-France-Hawaii Telescope



Director Paul Ho, James Clerk Maxwell Telescope (East Asian Observatory)



Interim Director Satoshi Miyazaki, Subaru Telescope

April 4, 2022

Re: Opposition to HB 2024 HD1 SD1: Relating to Mauna Kea.

Dear Chair Dela Cruz, Vice Chair Keith-Agaran and the Senate Ways and Means Committee,

The Kona-Kohala Chamber of Commerce strives to enhance the quality of life for our community through a strong, sustainable economy on Hawai'i Island. With 425 member businesses and organizations, we exist to provide leadership and advocacy for a successful business environment in West Hawai'i.

We appreciate the cultural expertise and thoughtful presentation of the Mauna Kea Working Group report (House Resolution 33) that provided recommendations that formed the basis of House Bill 2024. **However, the Kona-Kohala Chamber of Commerce opposes HB 2024.** Despite our objection, we thank all those who participated in the Mauna Kea Working Group and recognize the value of this experience for all involved.

We oppose establishing the Mauna Kea Stewardship and Oversight Authority as proposed in HB 2024 HD1 SD1. We believe the University of Hawai'i is by far the best option for a management structure on Maunakea. UH understands that it must protect Maunakea's value as a culturally significant landscape as well as a premier location for astronomy. With entities in place such as the Center for Maunakea Stewardship, 'Imiloa Astronomy Center and the Institute for Astronomy, the University of Hawai'i has broad resources, vast knowledge and a steadfast commitment to provide the best possible management under very complex circumstances.

We ask that legislators please consider the immense negative impacts of HB 2024. The master lease renewal of 2033 is an urgent matter and the sublease negotiations with the observatories must be addressed. The transition to a new management authority will be cumbersome and take time. We are very concerned that the time frame is too short and the consequences will be dire. **We fear that Hawai'i's astronomy industry will be lost if HB 2024 turns into law.**

Hawai'i's astronomy sector provides needed economic diversity. Recently, the University of Hawai'i Economic Research Organization (UHERO) published the executive summary of a 2019 update to their study, "The Economic Impact of Astronomy in Hawai'i." They report that local astronomy related expenditures in the state total \$110 million with \$57 million spent in Hawai'i County. The total impact on the output of goods and services in the state is \$220 million. Statewide the industry supports 1,313 jobs and 611 are on Hawai'i Island. They conclude that astronomy continues to be a sizable and stabilizing source of economic activity for our state.

Maunakea is one of the best locations in the world to study the stars. Significant scientific research is conducted at Maunakea observatories including worldwide joint projects such as capturing the first image of the black hole called *Powehi*. Hawai'i's clear nighttime skies not only benefit those in Hawai'i but all of humankind.

It makes us extremely sad to think about the loss of opportunity for Hawai'i's future generations. The astronomy industry funds initiatives and offer programs that greatly enhance STEM education and workforce development for Hawai'i's 21st century jobs and careers. For example, the Mauna Kea Scholars Program competitively allocates observing time on world-class telescopes for local high school students. The Akamai Internship Program offers college students from Hawai'i an opportunity to gain summer work experience at observatories and other science or technical related companies. To date, this program has provided 451 internships since 2003.

Lastly, Hawai'i's local, national and international reputation as a place to do business will be undermined as a result of this transition of authority. Producing so much uncertainty at this level will create cascading negative impacts for Hawai'i's future.

We ask that legislators vote NO on HB 2024 HD1 SD1.

Sincerely,



Wendy J. Laros, President and CEO
Kona-Kohala Chamber of Commerce



Testimony to the Senate Committee on Ways and Means

Tuesday, April 5, 2022

10:30 A.M.

Video Conference

Conference Room 211

HB 2024 HD1 SD1: RELATING TO MAUNA KEA

Chair Dela Cruz and Vice Chair Keith-Agaran and Members of the Committee:

My name is Gary Kai and I am the Executive Director of the Hawaii Business Roundtable. The Hawaii Business Roundtable opposes House Bill 2024 HD1 SD1 which will establish the Mauna a Wakea Stewardship and Oversight Authority as the sole authority for the management of State-managed lands on Mauna a Wakea above the 9,200 feet elevation.

The Hawai'i Business Roundtable is a statewide organization made up of Chief Executive Officers of many of the largest companies in Hawaii. While it is made up of business leaders, the Hawaii Business Roundtable is a community organization focused on broad community issues. It partners with government, private, nonprofit and other community organizations in building a stronger future for Hawaii and its keiki.

The HBR supports Astronomy on Maunakea but also respects its sacredness and cultural importance. We recognize there were failures in the past to observe and respect the significance of this site. We appreciate the changes

Astronomy has been an important part of Hawaii's history and culture. Today, it contributes to a meaningful, sustainable future for our community and our keiki. Hawaii is home to a world-class center of astronomy and research. The ground-breaking work of the University of Hawaii's Institute of Astronomy and the other astronomers on Mauna Kea puts Hawaii at the forefront of discovery and exploration. It shows our future generations that Hawaii can be a world leader in technology and science and provide hope to our youth. They no longer need to leave our islands to pursue these types of opportunities.

As business people, we have also spoken about the economic benefits of astronomy. More than a billion dollars can be invested in Hawaii with a project like TMT. Even now, there are 1,400 jobs statewide that are sustained by the astronomy field creating approximately \$170 million in annual economic benefit to the state. It contributes to a more diversified economy which Hawaii needs.

While we appreciate the changes to the bill to insure the future of Astronomy in Hawaii, we are still concerned that the complexities of the implementation plan for the new authority are not clearly addressed. There are numerous issues, including but not limited to land transfers, development of management plans, permitting and developing administrative rules that may require years to complete. Astronomy may be at a disadvantage to attract projects like TMT especially with the general lease scheduled to terminate in 2033. Astronomy in Hawaii is too valuable of an asset for the world, our community and its keiki to risk its demise. We are willing to work with the University of Hawaii and broader community to insure the proper Stewardship of Maunakea and urge you to oppose House Bill 2024 HD1 SD1

Thank you very much for the opportunity to testify.

Gary K. Kai, Executive Director
Hawaii Business Roundtable

LATE

ASSOCIATION OF HAWAIIAN CIVIC CLUBS
MOKU O KEAWE - HAWAI'I COUNCIL

TESTIMONY
HB 2024 HD1 SD1, RELATING TO MAUNA KEA
SENATE COMMITTEE WAYS & MEANS
APRIL 5, 2022

SUPPORT WITH RESERVATIONS AND COMMENTS

Aloha Chair Donovan Dela Cruz, Vice Chair Gilbert Keith-Agaran and members of the committee:

Mahalo for considering HB 2024 HD1 SD1. The Moku o Keawe Hawai'i Council of the Association of Hawaiian Civic Clubs have been tracking HB 2024 HD1 SD1 and have discussed the substance of the Bill. As such, please consider the comments and suggested amendments which are also offered by members of the Mauna Kea Working Group, as follows:

Recognition of Kumu Kānāwai, Hawaiian laws of nature and Mauna a Wākea name: The Mauna Kea Working group recognizes the importance of establishing and recognizing a Hawaiian cultural foundation for the management of Mauna Kea. For this reason, the four Kumu Kanawai were inserted into the report and in HD1. They are

- (1) Ho'okiki Kanawai - the edict of continuum, in which flows of magma move, water basins flow; clouds move; air and ocean currents are active; and islands continue to be shaped, formed and conditioned naturally;
- (2) Kua'ā Kanawai - the edict of gestating landscapes, in which craters erupt; marshes are active; coral heads are in season; and wet forest produces;
- (3) Kai'okia Kanawai - the edict of natural boundaries, including the path of the sun, moon and stars from north, south, east and west; and vertical and horizontal divisions of land, ocean and space above; and
- (4) Kihō'ihō'i Kanawai - the edict of regeneration, that nature will fix itself, including immediate restoration of landscape after a flood, lava flow, windstorm and fire.

Further, the recommended name Mauna a Wākea for the Authority is not intended to officially change the name of the mauna. This name was chosen because it reflects the genealogy of the mauna, recognized in Hawaiian mo'olelo (stories) and mele/oli (chants and songs) as born of the union of Papa and Wākea, the earth and sky. It is also recognized that Mauna a Wākea is one of a number of names which refers to Maunakea or Mauna Kea. The bill does recognize the various names for Mauna Kea. **It is requested that the Kumu Kānāwai be re-inserted into the bill and could be included in Section 7 Advisory Groups; Native Hawaiian culture.**

Mauna Kea stewardship and oversight authority; established. The authority is placed within the University of Hawai'i for administrative purposes.

(1) Definitions, "Mauna Kea Lands" definition: Area Jurisdiction for the Authority would be moved up to the 9,200 ft elevation level, presumably to include the currently held lease for the Hale Pōhaku and Onizuka Visitor's Center, however these facilities are slightly below that elevation. **It is recommended that the jurisdiction area be lowered to at least 8,000 ft to include those facilities as well as the surrounding pu'u which are currently heavily impacted by unabated visitor foot traffic and the nearby ATV trail which should be considered as well. In addition, there is reference to Pu'u Huluhulu (6,500ft) within the jurisdiction area which should be deleted.**

(2) The composition of the board is changed which results in the addition of a seat for Mauna Kea Observatories and the loss of a seat for an individual with expertise in Native Hawaiian traditional and customary practices (not necessarily related to Mauna Kea). Representation of community expertise on decision making authorities is an important part of the effort by the Mauna Kea Working Group to find balance. **It is humbly requested that this position be reinstated on the authority's board.**

(d) The terms of the authority members are a maximum of 12 years. **It is recommended that the terms be reduced to 3 - three year terms for a total of 9 years or 2 - four year terms for a total of 8 years.**

Section 3 Powers and responsibilities, generally. (b) (7) Decommissioning of telescopes

The SD1 includes the following language - "Timely decommission the California Institute of Technology (Caltech) Submillimeter Telescope and the University of Hawai'i, Hilo Hōkūke'a Teaching Telescope.", lines 18-20, page 9. **It is requested that the language related to the cost of decommissioning telescopes be reinserted into the bill - "(a) Any lease issued by the authority for the purposes of an astronomical observatory shall ensure that the astronomical observatory shall plan for and finance its decommissioning process on Mauna Kea and return and restore the impacted areas, to the greatest extent possible, to their pre-construction condition; provided that the authority shall determine what site restoration shall be based on, including but not limited to the protection of the natural and cultural resources on Mauna Kea and in accordance with the authority's guiding operational values and principles.**

(b) The authority shall develop a process to enforce compliance with lease requirements, including but not limited to establishing fines.

C. The authority shall establish a trust fund, special fund or other funding mechanism designated for decommissioning costs that the astronomical observatories shall be required to contribute toward as a condition of their leases; provided that the authority shall determine the required contribution." In addition, the University of Hawai'i's current plan calls for the decommissioning of 5 telescopes, two which are reflected in the current SD 1 and three more which are unnamed. **It is requested that this be reflected in the bill.**

Transition; management plan (b)

Amendments that replace “shall” with “may” for the management plan provide too much flexibility, ie. “The management plan may: (1) Be developed during the transition period; Be finalized, approved, and operational by the end of the transition period; Be updated at least every ten years...; Consider the State’s energy and sustainability goals...; Incorporate indigenous management and cultural processes and values; and Include an aspirational statement to acknowledge and contextualize unresolved social justice issues that underpin Mauna Kea.” **It is requested that the mandatory SHALL language be restored, as these are all important requirements for the proper management of Mauna Kea.**

11. Lease restrictions; generally (a)(2)

“Leases (subleases) are allowable for a term longer than sixty-five years or renewal of terms that result in a total term of more than sixty-five years shall be subject to approval by a supermajority vote;”

The new Authority appears to be given broader lease extension authority under SD1 that is not currently held by UH or BLNR. **While the lease extension authority appears to be limited by BLNR’s Chapter 171 land disposition requirements, it is recommended that this language be removed to avoid conflict and confusion between the authority and the BLNR.**

The Association of Hawaiian Civic Clubs’ mission is to effectively advocate for the educational, civic, health, cultural, economic and social well-being of the lāhui. The Association of Hawaiian Civic Clubs is a confederation of individual and autonomous clubs established across Hawai’i and the U.S. Continent. Our chartered clubs are organized into five councils: Moku o Keawe (Hawai’i Council), Nā Hono A’o Pi’ilani (Maui Council), Ke One o Kākuhihewa (O’ahu Council), Moku o Manokalanipō (Kaua’i Council), and Nā Lei Makalapua (Mainland Council). As such, the Moku o Keawe Council **appreciates the opportunity to revise, clarify and strengthen HB 2024 HD1 SD1.**

Nāu nō me ka mahalo,



Shane Palacat-Nelsen
President



LATE

Kamehameha Schools®

Senate Committee on Ways and Means

Time: 10:30 a.m.

Date: April 5, 2022

Where: Conference Room 211

TESTIMONY

By Kaeo Duarte

Vice President, Community & 'Āina Resilience

RE: HB 2024, HD1, SD1, Relating to Mauna Kea

Aloha e ka Luna Ho'omalua Dela Cruz, ka Hope Luna Ho'omalua Keith-Agaran, a me nā lālā o ke Kōmike.

Kamehameha Schools provides **comments** on HB 2024, HD1, SD1, which, among other things, establishes the Mauna Kea Stewardship and Oversight Authority as the principal authority for management of state-managed lands above the 9,200 feet elevation line on Mauna Kea.

Mauna Kea is a place of great ecological, historical, and cultural significance for Hawai'i and for Native Hawaiians. The proper management of Mauna Kea's rich natural and cultural resources has been a source of continued community concern and controversy. House Resolution No. 33, HD1 (2021) established the Mauna Kea Working Group (MKWG) to develop recommendations for a new governance and management structure for Mauna a Wākea that collaboratively engages with all stakeholders, particularly the Native Hawaiian community.

With 15 people serving on the MKWG with differing views, the process proved to be balanced, while demanding and difficult. Therefore, we applaud the efforts of the MKWG for having the necessary courageous conversations over the course of the past year. We recognize their recommendations as a milestone toward better management of Mauna Kea in the future.

As one of the Working Group's recommendations, we support the concept of establishing a new Mauna Kea Stewardship Authority to create a venue where diverse expertise and the voices of all stakeholders, particularly those from the Native Hawaiian community, are meaningfully included in the decision making process. We trust that legislative leadership will continue to work in collaboration with MKWG members and other community stakeholders to ensure the important details of assembling such an Authority are appropriately addressed. We recognize the value of such input as we strive for pono stewardship of the 297,534 acres that KS owns on Hawai'i, as well as our remaining lands throughout the pae 'āina.

Furthermore, it is a goal of our organization to educate 'ōiwi leaders who are empowered to solve the issues of our people and communities. As such, while no process is perfect, in creating this venue, we have faith and trust that the leaders in our community will rise to carry this great kuleana with the same aloha and na'auao that underline the MKWG's recommendations. We urge that spirit continues through the language of this measure.

Founded in 1887, Kamehameha Schools is an educational organization striving to restore our people through education and advance a thriving Lāhui where all Native Hawaiians are successful, grounded in traditional values, and leading in the local and global communities. We believe that community success is individual success, Hawaiian culture-based education leads to academic success and local leadership drives global leadership. Hānai i ke keiki, ola ka lāhui. *Nurture the child, and the people thrive.*

LATE

HB-2024-SD-1

Submitted on: 4/4/2022 10:55:56 PM
Testimony for WAM on 4/5/2022 10:30:00 AM

Submitted By	Organization	Testifier Position	Testify
Jacqui Hoover	Testifying for Hawaii Island Economic Development Board	Oppose	Written Testimony Only

Comments:

The Hawaii Island Economic Development Board (HIEDB), Inc. established in 1984 is committed to strategic economic development and diversification for Hawaii Island and is strongly opposed to HB2024 HD1 SD1. While very supportive of the shared Hawaiian values and culture integrated in the report developed by the Mauna Kea working group, there are significant concerns and inadvertent consequences running through the core of HB2024.

The time and process necessary to stand up a new management entity eliminates the predictability necessary to ensure that Hawaii's vibrant and economically sound astronomy sector can survive and thrive. Such exclusion is in direct contradiction to the updated report by on the economic impact of astronomy of \$221 million in 2019 by the UHERO (University of Hawaii Economic Research Organization). Nor does the bill recognize the 610+ jobs that will be lost.

HIEDB requests that the University of Hawaii continue its stewardship role for Mauna Kea and integrate to the extent possible, the cultural values, inclusion, and collaboration identified by the Mauna Kea Working Group in its report.

Thank you for this opportunity to voice our opposition to this measure.

LATE



'Ahahui o nā Kauka

677 Ala Moana Blvd., Suite 1015

Honolulu HI 96813

Phone 808.548.0270

E-mail huikauka@gmail.com

2021-2022 Advocacy
Committee

April 5, 2022

Noa Emmett Aluli, MD
President

Martina Kamaka, MD
Vice-President

Kara Wong Ramsey, MD
Treasurer

H. Nalani Blaisdell-Brennan,
MD

Kapono Chong-Hanssen, MD
Advocacy Chair

COMMITTEE ON WAYS AND MEANS

Senator Donovan M. Dela Cruz, Chair

Senator Gilbert S.C. Keith-Agaran, Vice Chair

Group Testimony in Support of HB2024HD1SD1

Relating to Mauna Kea

Aloha Chair Donovan Dela Cruz, Vice-Chair Gilbert Keith-Agaran and members of the Senate Ways and Means Committee.. I am Dr. Noa Emmett Aluli and on behalf of the 'Ahahui o nā Kauka. We stand in support of HB 2024 Relating to Mauna A Wākea, with suggested amendments.

Ahahui o nā Kauka, the Association of Native Hawaiian Physicians, established in 1998 to *Champion Superior Health Care for all Native Hawaiians*, is **IN SUPPORT of HB 2024**, which would establish a new authority for the stewardship of Mauna A Wākea, with the authority to develop a use plan, restrict commercial activities and more.

Following our first visit to Mauna a Wākea in January 2001, our membership made a huaka'i to Mauna a Wakea to educate ourselves on what is important to our culture, to the Hawaiian community, and the world at large in the pursuit of health and well-being. As Kānaka 'Ōiwi and medical scientists, we support the protection of Mauna A Wākea, and of all sacred places. We understand that wahi kapu, sacred places, are essential to the health and wellbeing of our people.

As part of the Pacific Rim Indigenous Doctors Congress (PRIDoC) in 2016 and again in 2018 we unanimously took a position to support the Kia'i of Mauna A Wākea to protect the Mauna from the desecration.

Creating a dedicated stewardship entity, as proposed in HB 2024, will assure wise management that is values- and place-based, and hopefully preclude conflicts of interest that arise with the current managing entity.

In addition, we suggest the following amendments to HB 2024 HD1SD1:

1. Re-insert the Kumu Kānāwai, which is Foundational, as described in the Mauna Kea Working Group Report - Ho'okikī Kānāwai, Kua'ā Kānāwai, Kai'okia Kānāwai, Kīho'iho'i Kānāwai;
2. Utilize the spelling of Mauna a Wākea for all state related references, as stated and affirmed in the Mauna Kea Working Group's Report; and
3. Add language that would require the University of Hawai'i to cease all actions relating to Mauna a Wākea lease and contract renewals until the new Mauna a Wākea stewardship authority is established and is operational.

Let us bring to fruition the words that were offered by the Mauna a Wākea Working Group:
He lā hou kēia ma Mauna a Wākea.

A new day has indeed arrived on Mauna a Wākea.

Mahalo for the opportunity for the 'Ahahui o nā Kauka to testify in support HB 2024.

Me ke aloha no Mauna a Wākea.

LEGISLATIVE TESTIMONY

Senate Committee on Ways and Means

HB2024 HD1 SD1 – RELATING TO MAUNA KEA

Tuesday, April 5, 2022, 10:30am, Rm 211 & Videoconference

The Council for Native Hawaiian Advancement (CNHA) offers the following **COMMENTS** on HB2024, HD1 SD1, which relates to the management of Mauna a Wākea. While the SD1 provides an improved management framework for the mauna, we believe it does not go far enough. Therefore, CNHA respectfully requests the Committee to revert this measure back to the HD1, which offered a comprehensive overhaul of the state’s management of Mauna a Wākea necessary to place the ‘āina at the center of our stewardship efforts and to rebuild trust with the public, and especially with the Native Hawaiian community. In particular, CNHA calls attention to the following concerns:

- The SD1 removes important language that would have required the Mauna a Wākea Stewardship Authority to 1) “develop a framework to limit astronomy development on Mauna a Wākea,” and 2) “establish a plan to return the mauna above the nine thousand two hundred feet elevation line to its natural state when ground-based observatories are rendered obsolete due to developments in space-based astronomical technology.”¹ In light of the University of Hawai’i’s historical management failures, the removal of this language perpetuates the mistrust held by the Native Hawaiian community and will ensure that the ongoing relationship is adversarial in nature.
- The SD1 appears to provide the Mauna a Wākea Stewardship Authority with with a broader lease extension authority that what is currently held by the University of Hawai’i or the Board of Land and Natural Resources (BLNR).² Because the BLNR’s lease extension authority is still limited by HRS Chapter 171, it is recommended that this language be removed to avoid conflict and confusion between the Authority and the BLNR.
- The SD1 removes language that would have required that the management plan be updated every 10 years;³ instead, the current draft makes this update optional.

¹ *HB2024 HD1*, sec. 6, page 17, lines 10-19.

² “Leases that are for a term longer than sixty—five years or renewal of terms that result in a total term of more than sixty—five years shall be subject to approval by a supermajority vote.” *HB2024 HD1 SD1*. at

³ *HB2024 HD1*, at sec. 4, page 16, line 15.

Given the historical and well-documented issues related to the management of the mauna, it is imperative that this update be made mandatory.

- The SD1 makes significant changes related to the composition of the Mauna a Wākea Stewardship Authority. In addition to removing certain procedural safeguards intended to ensure the Native Hawaiian community’s ability to provide meaningful input,⁴ it also removes the position reserved for a practitioner of Native Hawaiian traditional and customary rights (not necessarily related to Mauna a Wākea).⁵
- The SD1 removes a provision that would require the state to transfer management and control of certain state-managed lands at Mauna a Wākea “to a sovereign Native Hawaiian entity upon its recognition by the United States and the State of Hawai‘i.”⁶
- The SD1 removes from the preamble, language that acknowledges the cultural foundation upon which Native Hawaiians’ relationship with Mauna a Wākea is based.⁷

For nearly a century, the state has struggled to effectively manage Mauna a Wākea, including controlling public access; balancing competing uses and interests; protecting significant cultural sites; and responding to concerns, especially from the Native Hawaiian community. Over the years, critical state audits, lawsuits and emotional protests have highlighted these management challenges. Although far from perfect, the original HD1 is a good start towards setting a foundation for better management of this sacred wahi pana. For this reason, we humbly provide comments and request that this committee revert this measure to the original HD1.

Mahalo nui loa for this opportunity to provide testimony on this measure.

Respectfully,

J. Kūhiō Lewis, CEO
Council for Native Hawaiian Advancement

⁴ See *id.* at sec. 3, pages 9 - 10.

⁵ *Id.* at sec. 2 (b)(10), page 6, line 19.

⁶ *Id.* at sec. 8, page 18, lines 9-18.

⁷ *Id.* at sec. 1, pages 2-3.

HB-2024-SD-1

Submitted on: 3/31/2022 1:31:21 PM

Testimony for WAM on 4/5/2022 10:30:00 AM

Submitted By	Organization	Testifier Position	Testify
Stephen T Hazam	Individual	Oppose	Written Testimony Only

Comments:

Please OPPOSE HB2024 HD1.

This bill would create a board heavily weighted to those that oppose science, oppose astronomy and oppose TMT. It would mark the end of astronomy in the state of Hawaii. It would impose a set of religious beliefs held by SOME Native Hawaiians instead of a balanced approach that includes all residents of Hawaii. NO significant investments will be made in Hawaii if a small group of activists are allowed to defy the law and impose their religious beliefs upon the majority.

Please OPPOSE HB2024 HD1

HB-2024-SD-1

Submitted on: 3/31/2022 2:24:33 PM

Testimony for WAM on 4/5/2022 10:30:00 AM

Submitted By	Organization	Testifier Position	Testify
Douglas Perrine	Individual	Oppose	Written Testimony Only

Comments:

HB2024, while somewhat improved from previous versions, is still a deeply flawed bill that creates a management authority expressly designed to produce specific management results including the elimination of commercial tours, the near-elimination of recreational use, and the restriction of astronomy. To this end, it not only specifically prescribes these objectives, but also creates an unbalanced membership on the authority. Traditional practitioners, who probably constitute no more than 1 or 2% of current users of the Mauna, are accorded two members (actually three, including the DHA appointee) on the board, while nature photographers, tour operators, and recreational users are given no representation whatsoever, even though these groups each vastly outnumber the traditional practitioners. Traditional practitioners are currently free to conduct their activities without limitation on the Mauna under current management, and none of the other user groups have proposed to limit the practitioners' activities in any way, although the reverse is clearly not the case. We already had a taste of this during the months of occupation of the protest camp when the protesters denied access to most residents. This bill specifically prescribes a fee and application requirement that would be onerous to the occasional recreational user. The proposed makeup of the board does not allow for anyone who will speak up for the many island parents who would like to take their keiki up to play in the snow on those rare occasions when snow and good weather coexist. This is clearly an attempt to hand control of a public resource to a specific group with racial and religious qualifications - a government action which is onerous, and likely in violation of the Hawaii constitution. In managing this very unique mountain - the best location on the planet for astronomy, I would ask the legislators to consider whether the Mauna is the property of a specific racial group, the property of the State of Hawaii, to do with as they please, or is it the shared inheritance of mankind? Is it not a global treasure in which every human on earth can be said to have some stake, and some (reasonable) rights? Could Hawaii decide to blast the top off the mountain regardless of what the rest of the world thinks about it? Was it okay for the Taliban to blow up the Buddha statues in Afghanistan when they were in power, or should the global community have had some say in that? How would members of the legislature feel if they took a trip to Arizona and were told they could not visit the Grand Canyon because only lineal descendents of the original Native American users of that landscape are now allowed to approach it? The legislature would be wise to tread very cautiously in the direction of devolving power to specific ethnicities and resource user groups while limiting the rights of other users, due to the law of unintended consequences. This year, it is the Big Island where most residents may be deprived of access to the most scenic and dramatic natural area of their home island. Next year it may be residents of Oahu who will be told they no longer have access to their favorite beach, stream, or mountain trail. While the "Melting Pot" concept of multi-ethnic culture in Hawaii has never been entirely accurate, we

may find that giving a small subset, with grievances, of a single ethnic group the power and directive to ban the customary practices of all the other cultures will shift the balance of of intercultural relations in a way that is ugly and very damaging to our lifestyle and economy and permeates nearly every aspect of life in Hawaii.

HB-2024-SD-1

Submitted on: 3/31/2022 3:21:40 PM

Testimony for WAM on 4/5/2022 10:30:00 AM

Submitted By	Organization	Testifier Position	Testify
Ronald Taniguchi, Pharm.D.	Individual	Oppose	Written Testimony Only

Comments:

Strongly oppose HB2020 HD1 SD1. Mahalo

HB-2024-SD-1

Submitted on: 4/1/2022 5:33:35 PM

Testimony for WAM on 4/5/2022 10:30:00 AM

Submitted By	Organization	Testifier Position	Testify
Aaron Stene	Individual	Oppose	Written Testimony Only

Comments:

Aloha,

The Senate Ways And Means Committee shouldn't advance HB2024, which removes the University of Hawaii from managing the summit of Maunakea. The university's management had left a lot to be desired in the past, but its management of the mountain has greatly improved in recent years. In other words, there is no reason to reinvent the wheel, and jeopardize the future of astronomy on Maunakea.

If this new management structure is put in place, it would cede control of the mountain to the minority that is opposed to astronomy. This would mean the end of astronomy as we know it on Maunakea. These astronomical facilities contributed \$110 million in direct economic impact for the state in 2019. The indirect economic impact doubled that amount.

These facilities have been made a scapegoat by the minority seeking control of the mountain for their own self-centered religious reasons. The existing management of the mountain should remain in place, as they've become good stewards of the mountain.

The summit of Maunakea should be accessible, and used, by all Hawaii residents, not just Native Hawaiians.

Aaron Stene

Kailua-Kona

HB-2024-SD-1

Submitted on: 4/2/2022 10:58:06 AM

Testimony for WAM on 4/5/2022 10:30:00 AM

Submitted By	Organization	Testifier Position	Testify
Thayne Currie	Individual	Oppose	Written Testimony Only

Comments:

I have reviewed the revised Senate version of the Maunakea management bill HB 2024 extensively.

This version has removed a few of the glaring flaws of the House version of HB 2024 but remains an extremely bad, dangerous bill that will result in poorer management of Maunakea, not better management. The bill is shoddily written, granting interim authority to non-existent entities and contains self-contradictory language on jurisdiction.

Furthermore, it contains the same fundamental flaws as before. Namely, the bill is reckless as it puts at risk the future of astronomy on Maunakea. It also likely substantially underestimates the complexity and cost of managing Maunakea. After two failed tries, I have no confidence that the legislature can, in the span of a few weeks, solve the complex task of creating a new management structure that will at least do no harm.

Passing this bill in either the current Senate or House form would be a severe mistake.

This bill should be DEFERRED. Instead, the legislature should consider a simple internal reorganization of the existing management structure led by UH to elevate voices in the Hawaiian community.

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1. HB 2024 is extremely reckless, as it puts astronomy in Hawai`i at serious risk.

- Support for astronomy is a long-standing state policy. Collectively, it one of the largest employers on the Big Island, responsible for well over 150 million dollars in spending per year. The current master lease for astronomy on Maunakea expires in 2033. UH is in the process of seeking lease renewal beyond 2033 and this must be done very soon.

- Any change of management will result in highly uncertain legal processes for the lease renewal. The bill quotes a transition period of 3 years after which the new authority will develop a management plan (2026 at the earliest). Such a management plan is a prerequisite to any lease renewal. History shows that such plans go through extensive editing during a public review process (e.g. the recent Maunakea Master Plan "E O I Na Leo"). The processes for formulating a comprehensive management plan and, later, the lease renewal itself require further public

consultation and extensive document editing. Legal challenges – e.g. a contested case hearing – will assuredly arise. UH is currently in the process of negotiating subleases with observatories: negotiations that would have to stop if there is a change in management. While UH has already taken many of the steps for a lease renewal, a change in management would return us to square one.

- Having a new authority put together management plans required for the lease renewal will almost guarantee there will not be a lease renewal. Put crudely, this bill WILL be weaponized to filibuster to death any future lease for current astronomy facilities on Maunakea, to say nothing of TMT.

- The current Senate draft appears to recognize this very serious issue but provides no real solution at all. Section 4c states that the new authority “shall complete the Mauna Kea master lease negotiations and continue to work toward resolving subleases” but does not say how this will be accomplished or on what timeline it will be done.

If continued, the bill should automatically extend the current master lease until a later date (e.g. 2063) and focus solely on sublease term negotiations, if doing so is legally permissible. Otherwise, it cannot be supported, period.

2. HB 2024 contains numerous technical flaws that will make management more difficult

For example ...

- it refers to the executive direct of the “center of Mauna Kea”. The entity that exists is the Center for Maunakea Stewardship.

- sections 6(a) contains contradictory and confusing language. E.g. Section 6(a) says “The authority shall have oversight jurisdiction of lands that are state-managed lands above the nine thousand two hundred foot elevation line on Mauna Kea, inclusive of Pu‘u Huluhulu to the summit of Mauna Kea.”

This should simply read: “The authority shall have oversight jurisdiction of lands that are state-managed lands above the 9, 200 ft elevation line on Mauna Kea.”

Pu‘u Huluhulu is at ~6,500 ft, not 9,200 ft. The clearest reading of this is that the HRE committee left in the Pu‘u Huluhulu mention by mistake.

The language should make clear that the authority has jurisdiction of Hale Pohaku and the Visitor’s Center (e.g. “inclusive of Hale Pohaku to the summit of Mauna Kea”).

- section 6(b) likewise contains contradictory and/or confusing language.

3. HB 2024 is the Result of a Tainted Process.

a. The bill's text heavily depends on recommendations from the Mauna Kea Working Group (MKWG). The bill premise is that management of Maunakea should be given to a new authority because current UH-led management is poor, or at least "inadequate".

However, neither the MKWG or the House committees who drafted this bill ever actually visited Maunakea in the first place. Neither has the Senate visited Maunakea for these purposes. They never saw management of the mountain firsthand nor spoke with current employees on site. The clear majority of comments on the bill were negative: the House never addressed these negative comments. It is entirely unclear whether their criticisms of current management are supported by facts on the ground.

On an issue so important to Hawaii and to the world, a bill should proceed if it is informed by evidence, or it should not proceed at all.

b. The management of Maunakea is literally the management of a large piece of land. The most appropriate Senate committee for this bill is Water and Land (WTL), whose purview includes "... *programs relating to ... **land and water management***" (emph. added). No other committee has these assigned purviews. The House counterpart to WTL oversaw this bill. Past Maunakea legislation (e.g. SB3090/HB1985 from 2018) went through the Senate's WTL committee.

Bypassing WTL for this bill is inappropriate, unlikely to be accidental, and yet another example of a tainted process.

On an issue so important to Hawaii and to the world, a bill should proceed properly or it should not proceed at all.

4. UH should retain management of Maunakea

Finally, the entire premise of a new management structure is flawed. The working group's creation was supposedly driven by the Ku'iwalu Report on UH's management of the upper 11,000 acres of Maunakea. In no uncertain terms, the Ku'iwalu Report lauds UH's management of natural resources on Maunakea, stating that Maunakea is "*some of the best managed land in the entire state*". Thus, there is no justification for removing a good manager of state lands.

The Ku'walu Report's main criticism of UH was its lack of community outreach and engagement with the Hawaiian community. That is a fair criticism. It can be addressed by giving representatives of Hawaiian community organizations and cultural practitioners shared decision making power in an internal reorganization of the current management structure. Addressing this issue does not necessitate an entirely new structure, certainly not one that puts astronomy itself at risk.

HB-2024-SD-1

Submitted on: 4/3/2022 7:53:40 AM

Testimony for WAM on 4/5/2022 10:30:00 AM

Submitted By	Organization	Testifier Position	Testify
Georjean Adams	Individual	Oppose	Written Testimony Only

Comments:

I continue to oppose setting up a new management organization for Maunakea. The amendments offered on HB2024 do not address the core issue that the proposed stewardship authority is dedicated to eliminating the practice of world class astronomy on Maunakea.

I respect the beauty and wonder of Maunakea and want to continue to minimize adverse impacts on the environment and maximize expanding our knowledge of the universe. I do not respect the imposition of religious beliefs of a small group of Hawaiians on all of us who love living here and who are proud of the scientific discoveries made by the observatories on our mauna.

I support the adopted Master Plan for the University of Hawaii Maunakea Lands January 20, 2022. The Plan shows careful consideration and balancing of both the cultural and scientific importance of Maunakea. I support the cutting edge observatories on Maunakea, the decommissioning of observatories that are past their prime, and the building of new observatories as they meet standards in the Master Plan. I support allowing respectful religious practices on the mauna. The University of Hawaii has learned a lot (and will keep learning) and has shown that it should continue managing the Maunakea Lands for the benefit of all.

HB-2024-SD-1

Submitted on: 4/3/2022 9:23:53 AM

Testimony for WAM on 4/5/2022 10:30:00 AM

Submitted By	Organization	Testifier Position	Testify
KATHERINE ROSEGUO	Individual	Oppose	Written Testimony Only

Comments:

Aloha, I work on Maunakea and I oppose bill HB2024 because it would affect me directly. I work as part of a community there which prioritizes safety, respect, science and Hawaiian culture. This bill is reckless and could put us all out of work. The people who wrote this bill didn't even visit Maunakea to see how we all work together and wouldn't be directly affected by it. In my job I have met the guy whose dad built the access road we all use, the many visitors from Hawai'i and around the world, our rangers and other workers. We love to work on this beautiful mountain and we all help and support each other.

It is irresponsible for both the MKWG and or legislators to ignore the plan already in place. How costly it would be to taxpayers to create a whole new organization than to just improve what already exists, if it needs it. Have you even read the Maunakea Stewardship Management Plan? <https://maunakea.konveio.com/> Read a few lines of the CMP. The entire focus is on how best to serve all stakeholders. Then look at the bill HB2024: "restrict" "authority" "limit" "decommission" "application fee" , all about power and control and you owe me and pay me and do what I say. This new "authority" doesn't have to submit any kind of plan or justification or credibility to come into existence, is given free reign for 7 years on our tax dollars, then decide if it did its job. Then don't even get me started on all the technical errors. To me, if you're going to spend this much of taxpayer's money, they should have to prove it upfront. Yet in the face of overwhelming public opposition to this bill, it is still passed forward. Why? I believe the elected officials are afraid of the protestors so they vote against astronomy, and against the will of the majority. So we have to vote new people in who are not afraid of fighting for our keiki and our future. Hawaiian culture and astronomy ALREADY CO-EXIST EVERY DAY ON MAUNAKEA. I work there. I see it and experience it. It is not only possible but happens every day. This is what the protestors are trying to destroy: Our legacy and our future.

It is an election year and the votes on HB 2024 are public. People who support keeping astronomy and Hawaiian culture alive on Maunakea are watching closely. We don't block public access roads. We vote. We will elect people who listen to the majority and are not afraid to fight for a future of astronomy and Hawaiian culture on Maunakea instead of cowering to people who block a public access road forcing so many out of work and who cry "desecration" while trashing Pu'u Huluhulu. He la'a ka 'imina'auao. Seeking knowledge is sacred.

HB-2024-SD-1

Submitted on: 4/3/2022 10:00:36 AM

Testimony for WAM on 4/5/2022 10:30:00 AM

Submitted By	Organization	Testifier Position	Testify
Christoph Baranec	Individual	Oppose	Written Testimony Only

Comments:

Please vote against HB2024 HD1 SD1

Aloha,

This bill's assertion that there is a "rigid dichotomy between culture and science" is a falsehood promoted by the protestors. More importantly, the creation of any new governing entity for Maunakea will fatally delay the observatory lease renewal which expires in 2033. Do you really think it is wise to destroy a sector of our economy that contributes more than \$100,000,000 annually per UHERO, which is on par with the economic impact of agriculture in our state? I believe this new governance model proposal should be abandoned in favor of continuing UH's management under UH's new proposed plan and structure. Please do not pass this bill out of your committees.

Mahalo no kou manawa,

Christoph Baranec

Registered Voter in Senate District 1, House District 2, Hilo Hawaii

HB-2024-SD-1

Submitted on: 4/3/2022 11:24:30 AM

Testimony for WAM on 4/5/2022 10:30:00 AM

Submitted By	Organization	Testifier Position	Testify
Rodrigo Romo	Individual	Oppose	Written Testimony Only

Comments:

Aloha Kakou:

Mahalo for the opportunity to submit testimony in opposition to HB2024.

The truth is that this Bill should have never even been introduced. The bill was a bad transcript from a poorly written report generated by the Maunakeal Working Group.

This bill should have died in its one and only triple committee hearing in the House. Several house members for the three different committess expressed concerns and reservations on the content of the bill, several voted against passing it, yet, in the end, the bill was passed. Several of the representatives in the triple hearing referred to the bill as "work in progress". If the bill was "work in progress" why not send it back to those who introduced it and ask them to finish the work first and then re submit it. To try to force a bill that is not complete for the sake of introducing it is unacceptable. No where in the private industry, or even in school can one get away with submitting an unfinished piece of work and claiming it's "work in progress".

The amount of opposition with strong justification has come from various state organizations, such as DLNR who has indicated that UH is indeed doing a good job in mananging the land, as well as many chambers of commerce and small businesses who depend on the activity on the mountain.

This last iteration of the bill, while not as toxic as the original version still falls way short of a decent piece of legislation. Do what is right, send the bill back to those who introduced it and ask them to do a proper job.

Mahalo

HB-2024-SD-1

Submitted on: 4/3/2022 1:29:29 PM

Testimony for WAM on 4/5/2022 10:30:00 AM

Submitted By	Organization	Testifier Position	Testify
John R. Frank	Individual	Oppose	Written Testimony Only

Comments:

Dear Leaders,

Please OPPOSE this bill. Even as amended, this bill would damage Hawaii.

This bill would also damage the United States.

Astronomy has been and should continue to be one of the shining glories of Hawaii. Hawaii should commit firmly to the pursuit of astronomy. The UH flagship telescope complex on Hawaii Island is the foundation of that commitment. The Mauna Kea telescope complex visibly connects Hawaii to the world. It makes Hawaii a leader and gives it a presence on the world stage. This bill (even as amended) is designed to end that leadership role and destroy astronomy on Hawaii.

Instead of the chaos proposed by this bill, please bolster the University of Hawaii and help it lead Hawaii and astronomy into the future.

JRF

April 3, 2022

WAM Committee
Senate, Hawai'i State Legislature
31st Legislature, 2022
State of Hawai'i

Subject: OPPOSITION to Bill HB2024 HD1 SD1(Mauna Kea Stewardship and Oversight Authority)

Aloha,

As an education professional, researcher, faculty member at UH Hilo, and resident of the county of Hawai'i for more than two decades, I strongly oppose Bill HB2024 HD1 SD1 on the Mauna Kea Stewardship and Oversight Authority as proposed. Even with its current amendments, this bill is based on the original - and very flawed - report of the Maunakea Working Group, and its content remains unsound, in particular the completely unrealistic timetable envisioned for addressing the extremely complex situation on Mauna Kea. Consequently, passing this bill will have catastrophic results for astronomy in Hawai'i, and will deeply endanger the prestige of Hawai'i worldwide. Please, find below my comments on some specific issues:

- I support Native Hawaiian involvement in the future stewardship governance of Maunakea.
- Bill HB2024 is anchored in the very incoherent report of the Maunakea Working Group. This report has been severely criticized, by hundreds of individuals from the public and important community associations and organizations in Hawai'i. For instance, that report severely understates the importance and contributions of astronomy conducted from Maunakea for the entire world and for the prestige of the State of Hawai'i. Astronomy has also a large economy impact (more than \$200M on the Big Island alone according to the recent UHERO report) and offers essential educational opportunities for all residents of Hawai'i. None of that is included in that report, is barely mentioned as well in Bill HB2024, making these working documents very incomplete, shallow, and misleading. Maybe even more importantly, the bill is mostly entirely rooted on the false narrative of the so-called UH "mismanagement" of the mountain. This is also completely erroneous, as everybody knows about the tremendous efforts made by UH in the past two decades in supervising how activities are indeed taking place on Maunakea, while focusing also on improving consultation with the community (as for instance well displayed during the development of the new Master Plan).
- The new governance entity as proposed must be held to the same standards that the University has been held to in the past decades. I do not find improvements upon the already existing management structure as the proposed responsibilities are vague, the timelines are completely unrealistic and many of the suggested procedures are already in place. The complex legal implications of the new

governance are also not discussed. On the contrary, I believe the new UH Master Plan proposes a more realistic and sound governance, and that public consultation has been thorough through its development process.

- With its lack of details and risk analysis, Bill HB2024 creates a problematic climate of uncertainty related to the near-future scientific and educational activities linked to Maunakea. It's rather clear that the whole scheme is designed as an intent to eventually remove all astronomy facilities from Maunakea. In particular, the timetable envisioned in the bill is completely unrealistic in the context of the lease renewals for the observatories. The decision of the observatories to pursue astronomy after 2033 or not must be made no later than about 2026, as decommissioning these facilities is a very lengthy process as seen with CSO and Hoku Kea. No such a decision is possible if negotiations are stalled between the negotiating agencies and a transition governance entity, which would not be even remotely equipped to deal with the complete operational, financial, and legal situation of Mauna Kea. Therefore, I oppose the bill because:
 - The current ensemble of Maunakea Observatories is the most productive research-wise in the world. Observatories also have a strong educational impact, not acknowledged in the report and the Bill. The goal seems to make the future of all existing astronomical facilities on Maunakea very uncertain. Respective agencies in the process of evaluating further investments in their existing facilities (including NASA and the NSF and their important contributions in astronomy and educational opportunities) are already very concerned if such a new governance is put into place. The loss of world-class astronomical facilities on Maunakea would be a deep injury for the entire State of Hawai'i, for all of astronomy in the USA, and worldwide. There have been so many discoveries using the facilities on Maunakea that it is difficult to imagine the state of astronomy today if telescopes had not been built on that superb site.
 - Research activities on Maunakea provide numerous STEM educational opportunities, for hundreds of students across the State of Hawai'i. At UH Hilo alone for instance, opportunities for students arise in fields like evolutive biology, ornithology, volcanology, astronomy, engineering, geology, robotic space exploration, botany, hydrology, environmental science, ecology, climate change, etc. As mentioned above, the uncertainty surrounding the future access to Maunakea and the loss of the observatories as anticipated in this bill could have a very negative impact on all these activities, more so if local or federal research funding related to such STEM are affected or reassessed due to an unsound management structure.

Will the loss of such important research, educational and significant facilities be the legacy left to the next generation by of the actual Senate? The situation with Maunakea is indeed complex, but this bill is even more divisive than anything ever proposed so far. This is just not the way to move forward. It will be a complete catastrophe if Hawai'i loses its astronomy facilities on Maunakea, tarnishing its prestige, image, and value around the world. Is it the vision of the Senate for the future of Hawai'i?

In summary, although I strongly believe that the Native Hawaiians involvement in the governance of Maunakea must be improved, I consider that the current bill does not provide an adequate solution. On the contrary. It is based on a false narrative – that the University of Hawai'i has severely “mismanaged”

the mountain – and it offers a poor alternative which will have very negative consequences for the prestige and future of the State as a whole. I believe what is proposed is even more divisive in addressing the complex problems related Maunakea and that HB2024 should not be moved for further consideration and implementation.

Sincerely,

A handwritten signature in blue ink, appearing to read "R. Pierre Martin".

Dr. R. Pierre Martin
Associate Professor & UH Hilo Educational Telescope Director
Chair, Department of Physics and Astronomy
University of Hawaii at Hilo
Hilo, Hawaii

HB-2024-SD-1

Submitted on: 4/3/2022 6:09:54 PM

Testimony for WAM on 4/5/2022 10:30:00 AM

Submitted By	Organization	Testifier Position	Testify
Cathie Becker	Individual	Support	Written Testimony Only

Comments:

Aloha Representatives,

I would like to express my displeasure with house bill 2024-SD1. I am against this bill for a variety of reasons, most important are:

- The University of Hawaii-Hilo has shown itself to be a capable steward of Mauna Kea. It has evolved to meet the specific problems year after year. I believe that it should remain the sole authority for the management of state-managed lands on Mauna Kea.
- I disagree that we need to establish an unproven new management agency when there is already a highly competent steward in place.
- I support the growth of Astronomy; Mauna Kea astronomy is an Hawaiian, a National, and an international gem that offers phenomenal and unparalleled access to research and education.

Sincerely,

Cathie A. Becker

becker.cathie@gmail.com

77-6409 Pualani Street-Kailua Kona

808-747-7702

HB-2024-SD-1

Submitted on: 4/3/2022 6:17:24 PM

Testimony for WAM on 4/5/2022 10:30:00 AM

Submitted By	Organization	Testifier Position	Testify
James B Friday	Individual	Oppose	Written Testimony Only

Comments:

Aloha Chair Dela Cruz, Vice-chair Keith-Agaran, and members of the Senate Committee on Ways and Means,

I am writing to oppose HB 2024 HD1 SD1 and the creation of an independent stewardship authority for Mauna Kea. Creating a new land management agency would duplicate existing programs and would not solve any of the conflicts about the use of the mountain.

Sincerely,

James B. Friday

Hilo, HI

HB-2024-SD-1

Submitted on: 4/3/2022 6:32:37 PM

Testimony for WAM on 4/5/2022 10:30:00 AM

Submitted By	Organization	Testifier Position	Testify
William Mason Evans	Individual	Oppose	Written Testimony Only

Comments:

I oppose this bill, even with its most recent amendments, because astronomical research is important to Hawaii. Ignoring science, or limiting scientific pursuits because of ancient folklore will push our state toward the dark ages.

Dr. William M. Evans

68-1845 Waikoloa Rd. Ste 106 PMB 247 Waikoloa, HI 96738

512-750-3367

HB-2024-SD-1

Submitted on: 4/3/2022 7:25:05 PM

Testimony for WAM on 4/5/2022 10:30:00 AM

Submitted By	Organization	Testifier Position	Testify
Wendie Sigouin	Individual	Oppose	Written Testimony Only

Comments:

This bill came about because certain groups want the authority to change the direction of what is currently in place on top of Mauna Kea, specifically Astronomy and Telescopes. I feel this bill is a continuation of protest to the TMT being built and the new authority will facilitate the demise of Astronomy on Mauna Kea by undermining the authority of the University of Hawaii who has bent over backwards to work with the cultural aspects of Mauna Kea. Maybe before completely altering the authority on Mauna Kea maybe this should be explored more and put on a ballot for the all the residents of the State of Hawaii to decide the fate of Mauna Kea. Mauna Kea is both iconic for its part in Hawaiian cultural past and in the present as a extremely important state resource that is being held hostage by some who can not share.

Sincerely,

Wendie Sigouin (I am 66 and remember the generation of people who actually made the world fall in love with Hawaii and its peoples All ethnicities living in prosperity and harmony. My grandma was half Hawaiian and was a most gracious lady who taught me to share. Let us share MaunaKea!)

HB-2024-SD-1

Submitted on: 4/3/2022 9:43:26 PM

Testimony for WAM on 4/5/2022 10:30:00 AM

Submitted By	Organization	Testifier Position	Testify
Pamela Jones	Individual	Oppose	Written Testimony Only

Comments:

My feeble words can hardly convey the weight on my heart at the prospect of never peering at the stars at the 9,000' level and the unimaginable loss to the planet if access and expansion is eliminated. Aside from the many lost jobs, valid certainly, but the discovery which is shared with the world is priceless! If north and south America declared every mountain, body of water, rock, etc. that natives were on at some point sacred and off limits, there wouldn't be much space available on which to live! There is no reason science and tradition can't exist harmoniously and is in fact very "Hawaiian style". Please consider everything - including future generations and do not take this away from us or disallow the 30 mm telescope.

HB-2024-SD-1

Submitted on: 4/4/2022 1:13:20 AM

Testimony for WAM on 4/5/2022 10:30:00 AM

Submitted By	Organization	Testifier Position	Testify
Michael Hoenig	Individual	Oppose	Written Testimony Only

Comments:

Aloha, Chair Dela Cruz, Vice Chair Keith-Agaran, and Senators on the Ways and Means Committee,

I am writing to you today to testify against HB2024 HD1 SD1.

Even in its revised form, this bill appears highly suspect. Why isn't it being sent to the most appropriate Senate committee, which would be Water and Land?

Why did certain members of the Higher Education Committee use time set aside for public testimony to pontificate on their own views regarding the University of Hawaii, and bully certain testifiers? I was struck by the lack of professionalism and objectivity. I sincerely hope this committee takes a more pono approach to hearing testimony.

As to the contents of the bill itself - it is trying to expand the current area of jurisdiction by about a factor of 10, to include the whole mountain from Saddle Road junction up to the summit. The current zoning of the various parcels differs substantially, and other entities such as DLNR and DHHL own these lands. Considering the potential legal complications, this expansion would make managing Maunakea even more challenging than it is now.

The bill also seems reckless with regard to astronomy on Maunakea. Astronomy on the mauna has long been supported by the state, and is a key, clean energy job sector in Hawaii. The current master lease for astronomy on Maunakea expires in 2033. A completely new management structure will make it next to impossible for UH to seek its lease renewal beyond 2033.

Speaking of astronomy: why is nobody from the astronomy community given a seat on the board? As I mentioned above, astronomy is a key industry for the state and collectively it is one of the largest employers on Hawaii Island. Maunakea is the best site for astronomy in the Northern hemisphere, possibly even in the world. Our understanding of the universe depends on it to a greater degree than you may realize!

Also, UH should at the very least retain co-management of Maunakea. The auditor's report commended UH's management of natural resources on MK, stating that it is "some of the best managed land in the entire state". There is no justification for simply removing a good manager of state lands - this seems like an act of spite or retribution. Not giving UH any future say at all would be a big loss, given they are the primary educational institution in our state. Astronomy on Maunakea (including the TMT, or not) would always have a connection with UH. So would biology (think Wekiu bug) or conservation...

How many of you have visited Maunakea to see for yourself the current state of the management there?

I agree that the Hawaiian community should have a voice in managing Maunakea. But creating an entirely new entity that will kill astronomy and wreck UH's solid management of Maunakea (and possibly bring up other issues - representation on the stewardship authority would be based on race, which seems troubling from a constitutional point of view) is not the way forward. I am of the opinion that this new governance proposal needs to be abandoned in favor of continuing the current management, under UH's proposed new, improved, plan. For this reason I ask you to reject this bill.

Mahalo for your time,
Michael Hoenig
Senate District 12

HB-2024-SD-1

Submitted on: 4/4/2022 7:34:44 AM

Testimony for WAM on 4/5/2022 10:30:00 AM

Submitted By	Organization	Testifier Position	Testify
Albert Coonrad	Individual	Oppose	Written Testimony Only

Comments:

Aloha,

I strongly discourage passage of HB2024. The bill is based on a report that, by all accounts, is incomplete, poorly written, and ignores U.S. doctrine that separates church and state.

Mahalo,

Al Conrad
Big Island resident since 1991

Dear Senator Dela Cruz and members of the Committee on Ways and Means,

I oppose HB 2024 in its current form. This bill directs the proposed new stewardship authority to develop a plan to limit astronomy development on the mountain regardless of how it fits with other elements of their management plan. Mauna A Wakea is regarded by many experts as the best location for astronomical observation on the surface of the earth. It is therefore a unique opportunity for Hawaii to further attract and retain higher education and technical talent, and to help give our young people opportunities other than lower-level tourist industry careers. For this reason, I think astronomical observatories are a justifiable use of the summit area. That does not mean there could not be some mixed use, such as on Haleakala.

I think the University of Hawaii could have done a better job in the past of promoting the value of the facilities on Mauna A Wakea to the people of the state. They could also have done a better job of attracting our young people to pursuing careers in astronomy, astrophysics, and the many related fields of study. However, with only one person appointed by the President of U of H on the stewardship authority I do not think they will have an adequate voice in the management of Mauna A Wakea. For example, there should also be an astronomer familiar with the various groups and projects currently active in the observatories, so the authority will have first-hand knowledge of how their decisions will affect the operations there and the potential benefits to science and the people involved in those projects.

I am a retired mechanical engineer and have been taking various courses at the university in astronomy and astrophysics and find it fascinating. One of my astronomy professors was Dr. Paul Coleman, a Hawaiian PhD who was very well versed in Hawaiian culture and spiritual beliefs. He taught the class Hawaiian names for the planets, stars and the phases of the moon, and also showed us photos and drawings of an observatory the ancient Hawaiians built on Mauna Kea. He found no conflict between astronomical observations and Hawaiian culture or spirituality, and taught us that some of the Hawaiian royalty enthusiastically supported and participated in using telescopes for astronomical observations. A friend of mine, "Doc" Chuck Burrows is also an expert in Hawaiian spiritual matters and supports the continued use of the Mauna Kea summit for astronomy, and is in favor of the TMT.

Thank you for considering my opinion on HB 2024 and for your service to our beautiful state.

Bruce Anderson
941 B Prospect Street
Honolulu HI 96822

HB-2024-SD-1

Submitted on: 4/4/2022 8:26:54 AM

Testimony for WAM on 4/5/2022 10:30:00 AM

Submitted By	Organization	Testifier Position	Testify
Melody Wan	Individual	Oppose	Written Testimony Only

Comments:

I hope this testimony has been read. I heard of the outcome from the last hearing where the legislative members did not bother to look at mine along with others and decided to abuse their powers by ignoring comments from concerned residents of this state. Their actions (speaking specifically those like Donna Mercado Kim) of how they decided to try to push for this bill shows an example of issues of the governance in Hawaii. Let myself and others who oppose this bill have the chance to really speak out why we do not agree with letting this bill happen.

Please consider the following below:

Problems with the bill

1. HB 2024 is extremely reckless, as it puts astronomy in Hawai`i at serious risk.

Support for astronomy is a long-standing state policy. Collectively, it one of the largest employers on the Big Island, responsible for well over 150 million dollars in spending per year. The current master lease for astronomy on Maunakea expires in 2033. UH is in the process of seeking lease renewal beyond 2033 and this must be done very soon.

Any change of management will result in highly uncertain legal processes for the lease renewal. While UH has already taken many of the steps for a lease renewal, a change in management would return us to square one.

The current Senate draft appears to recognize this very serious issue but provides no real solution at all. Section 4c states that the new authority “shall complete the Mauna Kea master lease negotiations and continue to work toward resolving subleases” but does not say how this will be accomplished or on what timeline it will be done.

2. HB 2024 contains numerous technical flaws that will make management more difficult

For example ...

- it refers to the executive direct of the “center of Mauna Kea”. The entity that exists is the Center for Maunakea Stewardship.
- sections 6(a) and 6(b) contains contradictory and confusing language. E.g. Section 6(a) says “The authority shall have oversight jurisdiction of lands that are state-managed lands above the nine thousand two hundred foot elevation line on Mauna Kea, inclusive of Pu‘u Huluhulu to the summit of Mauna Kea.”

Pu‘u Huluhulu is at ~6,500 ft, not 9,200 ft.

3. HB 2024 is the Result of a Tainted Process.

The management of Maunakea is literally the management of a large piece of land. The most appropriate Senate committee for this bill is Water and Land (WTL), whose purview includes “.. *programs relating to ... land and water management*”. No other committee has these assigned purviews. The House counterpart to WTL oversaw this bill. Past Maunakea legislation (e.g. SB3090/HB1985 from 2018) went through the Senate’s WTL committee.

Bypassing WTL for this bill is inappropriate, unlikely to be accidental, and an example of a tainted process.

On an issue so important to Hawaii and to the world, a bill should proceed properly or it should not proceed at all.

4. UH should retain management of Maunakea

In no uncertain terms, the Ku’iwalu Report lauds UH’s management of natural resources on Maunakea, stating that Maunakea is “**some of the best managed land in the entire state**”. Thus, there is no justification for removing a good manager of state lands.

The Ku'walu Report's main criticism of UH was its lack of community outreach and engagement with the Hawaiian community. This criticism can be addressed by giving representatives of Hawaiian community organizations and cultural practitioners shared decision making power in an internal reorganization of the current management structure. Addressing this issue does not necessitate an entirely new structure, certainly not one that puts astronomy itself at risk.

With how Hawaii seem to portray itself as progressing to the world, I believe letting this bill happen would set the state back by major steps. What kind of progression would this be if we all let the past histories of how Hawaii became the way it is dictate this measure? What would this say to those who have followed the laws and did every necessary step to legally obtain the permit to build the telescope, only to have this taken away because of strong feelings of contempt from a minor group of protestors? I know of those with Native Hawaiian descent and residents who are for the telescopes being built. Do not let these minor groups perverse the meaning of cultural importance with this bill. Please say **NAY** to letting this bill happen.

HB-2024-SD-1

Submitted on: 4/4/2022 8:27:26 AM

Testimony for WAM on 4/5/2022 10:30:00 AM

Submitted By	Organization	Testifier Position	Testify
Richard Wainscoat	Individual	Oppose	Written Testimony Only

Comments:

I am strongly opposed to this legislation. Maunakea is the single best site on our planet for astronomy. It will never be possible to use space telescopes to perform the very diverse research being done from Maunakea. In its present form, the bill will be very harmful to astronomy - particularly in the context of the need to renew the lease.

PATTI COOK

64-5246 Iokua Street, Kamuela, HI 96743
cookshi@aol.com * Cell: 808-937-2833

April 4, 2022

TO: HAWAI'I STATE SENATE COMMITTEE ON WAYS AND MEANS

Senator Donovan M. Dela Cruz, Chair
Senator Gilbert S.C. Keith-Agaran, Vice Chair
Committee Members

RE: HB2024 HD1 SD1 – OPPOSE

Hearing Scheduled for Tuesday, April 5, 2022 @ 10:30 a.m.

Aloha Senators Dela Cruz, Keith-Agaran and Committee Members:

Thank you for considering my testimony opposing SD1, though with slightly less angst than previous drafts of this bill, but it is only slightly less onerous for our island's and state's future.

Current management practices and commitments regarding the Maunakea by the University of Hawai'i – working closely in partnership with the Hawai'i Island community – to ensure that we “share the mauna” with the entire community and treat it with the needed/deserved environmental and cultural respect – these practices and commitments are appropriate and meaningful. Further, they will become even more visible and substantive as several of the existing scopes are decommissioned (as committed to and in the permitting process to complete), and a new master lease is put in place to update governance mandates for each of the astronomy organizations and other permit holders.

While I would agree that the UH performance in the past was not satisfactory, they have over the past 10 years significantly stepped up their efforts, commitment, listening and effectively responding – environmentally, culturally, socially and in keeping with the letter and spirit of the law that clearly mandates shared use of the mountain and welcomes astronomy to this mix. The UH has actively sought out community involvement, input, participation, and as a result, dozens of thoughtful, caring, well regarded community members from diverse backgrounds – from lineal descendants to scientists and engineers, environmentalists and conservationists to economic development and land management experts regularly participate in a volunteer capacity in management planning, decisions and oversight year-round.

Is it perfect? No, but it is noteworthy that the 2020 DLNR Independent Evaluation of UH's management of Maunakea concluded that UH-managed lands on Maunakea are among the best managed state lands in Hawai'i, and that negative perceptions of the university's management were associated with negative views on telescope development.

As the DLNR evaluation process acknowledged, concerns about the Maunakea and UH's role are in most cases directly tied to one's views about astronomy. I would add that also exacerbating concerns are legitimate grievances related to a range of serious issues that our Hawaiian community bears and has borne for decades regarding affordable housing, healthcare and education, and more generally due to poverty – resulting in serious lack of hope.

Actions proposed in HB2024 (all drafts to date) do not address or resolve these issues and will not reduce or eliminate the acrimony that exists. And they may well drive off astronomy, marginalize Hawai'i's urgent need to diversify our economy and have the funding needed to

seriously tackle these issues.

HB2024 reflects a narrow focused conversation. I am trying to believe it is well intentioned, but the actions proposed do not seem to be a valid compromise on what's needed to address the legitimate grievances of our Hawaiian community. If anything, the impact of the bill even now will be to diminish, if not eliminate, the presence of astronomy as part of our diversified economy and the enormous benefits it reaps for our state and the planet.

Further, this kind of hasty action will be felt far beyond astronomy – and will – or may have already broadcast to “the world” that Hawai'i is not a place to do business and not to be trusted – that public policy and legal permitting processes are subject to sudden, ill-conceived course changes, so don't invest here. For a state desperately in need of investment capital to address our environmental, social, cultural and economic needs and deficits (exacerbated by the huge export of cash annually for fossil fuel), this is a very dangerous message to be sending.

One last point since this bill seems to be moving: at the very least, the funding authorized needs to be increased. \$12M seems insufficient to both manage current activities and effectively implement the significant and complex changes SD1 proposes. I am not involved in the UH management system to understand costs but from my own experience with dealing with significant change, the budget authorization should be more like \$18M for the first year and then see what's needed moving forward.

Please defer action. This bill is very harmful to our children and future.

Patti Cook

HB-2024-SD-1

Submitted on: 4/4/2022 8:42:08 AM

Testimony for WAM on 4/5/2022 10:30:00 AM

Submitted By	Organization	Testifier Position	Testify
Michael J. Mottl	Individual	Oppose	Written Testimony Only

Comments:

I oppose this bill because the structure it establishes is way too complicated and unwieldy. It will likely kill all future telescopes on Mauna Kea because the structure in Hawaii will not be acceptable or practical for the international partners, without whom no large telescopes are affordable.

HB-2024-SD-1

Submitted on: 4/4/2022 8:50:11 AM

Testimony for WAM on 4/5/2022 10:30:00 AM

Submitted By	Organization	Testifier Position	Testify
Luella Nohea Crutcher	Individual	Oppose	Written Testimony Only

Comments:

Dear Members of WAM Committee,

HB2024 does not describe the sacredness of Mauna A Wakea. It is the tallest mountain on this planet that the world (let alone we of Hawaiian descent) holds as sacred. That some of us know that the whole top three thousand (3,000) feet is known as a '*Lananu'u mamao*', a Hawaiian temple created by Wakea (God). This is common knowledge, written in EIS by Dawn Chang for the University of Hawai`i, yet it is ignored.

"Uncle Ed, one of the original members of Kahu Ku Mauna (Guardians of the Mountain), a cultural practitioner with intimate knowledge of Mauna Kea, describes the mountain as the physical manifestation of a *lananu`u mamao*. Malo (1851) relates, *lananu`u mamao* are constructed with 3 *kahua* (levels), the lowest and least restricted being the *lana* (at about 11,000ft elevation), which was used for the bestowal of offerings. The second *kahua* is called the *nu`u* (at about 12,000 ft elevation and is more sacred - being reserved for the priests and their attendants. **The third and most saced *kahua* is the *mamao* (at about 13,000 ft elevation, where only the high priest and king were allowed to ascend.)**

HB2024 treats Mauna A Wakea as a commodity ("important cultural and genealogical site - - - highly valued site for astronomical advancements") and ignores it's highest level of sacredness. It is obvious to me that this leaves Mauna A Wakea open to further desecration.

So for that reason I oppose HB2024. I do not object to science. I object to the holiest mountain on this planet being desecrated any further. What about Hubble? Use the sky! Why desecrate any holy mountain? Mountains that provide clean water, that will no long provide clean water, due to contamination caused by the desecration.

I would like to also state that if this was a "western temple / church", the members of the church would be the board of that church. Why is it that Mauna A Wakea is to be run with maybe only two (2) members part of the Kiai (caretakers of the *Lananu'u mamao*)? What about Hawaiian religious rights?

Please oppose HB2024

Respectively submitted,

Luella Nohea Crutcher

HB-2024-SD-1

Submitted on: 4/4/2022 9:22:27 AM

Testimony for WAM on 4/5/2022 10:30:00 AM

Submitted By	Organization	Testifier Position	Testify
Andre Hassid	Individual	Oppose	Written Testimony Only

Comments:

The population of Hawaii is shrinking. Why? Because there are too few good paying jobs in our State. So young people are moving to the mainland. The medium pay for the Astronomy observatories is about \$100,000. The percentage of Hawaii raised people working at the observatories has steadily increased over the years, and we know that it is more economical for observatories to hire Hawaii residents than to import workers from the mainland. So why would we want to close down the Astronomy observatories, or make life impossible for them to stay on the cutting edge. It makes no economic sense. A recent study found that they contribute \$220 million to Hawaii's economy annually. This bill would throw it all away.

In 1960 a tsunami devastated Hilo and the Island of Hawaii's economy. Community efforts pushed for government support of astronomy on our Island to help revive the economy. The University of Hawaii commissioned a telescope on Mauna Kea in 1970. Other telescopes followed to revive the economy, including Canada-France-Hawaii Telescope, Subaru, Gemini, Keck I and Keck II. These world-famous telescopes provide construction, engineering, education, research and maintenance jobs on the Island of Hawaii. They also help attract and promote educators to fill our schools and educate our student community.

The telescopes should give a sense of pride to all Hawaiians as discovery after discovery is credited to Hawaii, and Hawaiian names are given to many discoveries. The astronomy community honors Hawaiian culture. Ouamuamua (scout) is the name given the first object ever discovered that came from outside our solar system. Hawaiian names (Ka'epaoka 'awela and Kamo'oalewa) were recently given to newly discovered asteroids by Hawaiian immersion students.

Telescopes on Hawaii Island have discovered the earliest galaxies to form in the Universe. They have been used to measure the mass of the Black Hole in the center of our Milky Way galaxy. Additionally, Hawaiian telescopes have discovered many planets in far away solar systems.

Flailing at the telescopes and the astronomy community is not the answer. Kill the telescopes and you kill the academic future of Hawaii. University educators in the fields of physics and astronomy will leave Hawaii and go to more welcoming and supportive communities. Without astronomy on the Mauna, Hawaiian students inspired by the astronomy community will have no role models to follow in this field.

Support the telescopes and Hawaii will become the center of astronomy in the world, and Hawaii students will be the ones who become the astronomers of the future and win Nobel prizes.

Opponents of the telescopes on Mauna a Wakea try to paint the Astronomy community as being anti-Hawaiian culture. Nothing could be further from the truth. Are we to forget that telescopes were first brought to Hawaii by King Kalakaua who understood the deep connection between Hawaiian culture and the study of the stars?

Destroying the telescopes is a form of modern-day, anti-knowledge book burning. Let's not go down that road. The telescopes and Hawaiian culture can live side by side in harmony on the Mauna. Let the University continue to manage the mountain. Let the astronomy observatories continue to provide revenues to Hawaii's economy. Let it continue to give good paying jobs to Hawaii students and residents. We will not keep our young people in Hawaii if there only job prospect is in the hospitality industry.

HB-2024-SD-1

Submitted on: 4/4/2022 9:39:17 AM

Testimony for WAM on 4/5/2022 10:30:00 AM

Submitted By	Organization	Testifier Position	Testify
Elaine Warner	Individual	Oppose	Written Testimony Only

Comments:

I strongly oppose HB2024 hd 1

I strongly oppose HB2024. This bill is misguided and racist. It will take us back to Kapu days which is not what our forebears wanted for us. Astronomy is a sacred science.

Aloha,

Elaine Warner

62-2040 Mahua St

Kamuela 96743

HB-2024-SD-1

Submitted on: 4/4/2022 10:01:52 AM

Testimony for WAM on 4/5/2022 10:30:00 AM

Submitted By	Organization	Testifier Position	Testify
Barbara Small	Individual	Oppose	Written Testimony Only

Comments:

Aloha, Senators.

HB2024 will end astronomy on Maunakea. The time provided to stand up a new governing body is too short. As evidenced by the now 7-year delay in TMT construction, three years is an unrealistic timeline that will result in triggering the decommissioning process before new leases can be finalized.

Passing this measure will also further damage Hawaii's struggling economy. We will be reinforcing our message to potential investors that Hawaii does not provide the stable environment that businesses need to flourish.

If HB2024 passes, the damage will be immediate. Funding agencies will begin looking elsewhere, improvement projects will be scrapped, and Hawaii will exacerbate its brain drain as people with the skills to fill those good-paying jobs leave before risking unemployment.

Please kill this bill in committee. It may be well-intentioned, but the effects will be disastrous.

Mahalo,

Barbara Small

Hilo

Dr. Richard E Griffiths
Pahoa
HI 96778

April 4 2022

Subject: Comments in support of HB 2024 SD1 with amendments

Dear Hon. Senators

As a constituent of the state and county of Hawai'i, I am writing to express my support of HB 2024 SD1 with amendments.

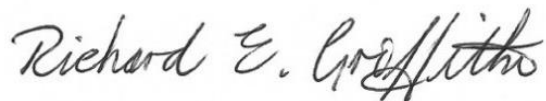
Although the Bill refers to the removal of two telescopes, viz. the UHH teaching telescope and the CalTech Sub-mm telescopes, it makes no reference to the Thirty Meter Telescope, which has been approved by the Hawaii Supreme Court and is therefore State law. The Bill should state explicitly that telescopes are being removed from Mauna Kea in order to allow the construction of the TMT.

The transition period from the current management of Mauna Kea to the new management structure, led by UHH Hilo, should not have any impact on the timeframe for the construction of the TMT or the removal of further telescopes from Mauna Kea in addition to those mentioned above.

A minor point: astronomers use the term 'observing time' not 'viewing time'. Astronomers make observations using the telescopes.

Mahalo nui loa,

Sincerely,

A handwritten signature in cursive script that reads "Richard E. Griffiths".

Richard E. Griffiths

LATE

HB-2024-SD-1

Submitted on: 4/4/2022 11:14:23 AM

Testimony for WAM on 4/5/2022 10:30:00 AM

Submitted By	Organization	Testifier Position	Testify
Joshua Walawender	Individual	Oppose	Written Testimony Only

Comments:

I am writing to oppose HB2024. I have read the new amendments offered by the Higher Education Committee and while they do address some concerns about this bill, the largest remains. The proposed new entity to manage Maunakea will not have a realistic timeline for renewing lease agreements with the existing astronomy facilities. It seems unlikely that an entity which stands up in July 2026 will be able to complete lease agreements in time for the end of the current lease in 2033 given that the decommissioning process is many years long and facilities would have to begin decommissioning well in advance of 2033. Perhaps if every single step of the process went perfectly and there were no lengthy legal challenges it could be done, but that seems unrealistic to the point of absurdity.

The legislature should have considered and passed a bill like this years ago. That would have given a new entity time to be assembled and for the terms of the master lease on Maunakea past 2033 to be considered carefully and designed to satisfy all stakeholders. If this bill passes now, it has potential to do great harm our state's leading role in science

LATE

HB-2024-SD-1

Submitted on: 4/4/2022 11:18:58 AM

Testimony for WAM on 4/5/2022 10:30:00 AM

Submitted By	Organization	Testifier Position	Testify
Lisa H. Gibson	Individual	Oppose	Written Testimony Only

Comments:

Members of the Committee:

I strongly oppose HB2024 HD1 SD1. It fails to acknowledge and undermines the significant progress made by the University to seek out community involvement in management planning, decisions and oversight addresses concerns of Hawaiians. Importantly, it also fails to address critical issues facing the Native Hawaiian community - living wage jobs, affordable housing, healthcare and education, all issues generally driven by poverty.

This bill will make a very strong statement about the consequences of investing in Hawai - basically it is not a good idea because one cannot trust the government to honor its past commitments. The chaos resulting from this bill will only undermine our astronomy industry, our reputation as a place to invest and any effort to create living wage jobs for our children in the future.

Please defer this dangerous bill.

LATE

HB-2024-SD-1

Submitted on: 4/4/2022 11:33:05 AM

Testimony for WAM on 4/5/2022 10:30:00 AM

Submitted By	Organization	Testifier Position	Testify
Donald Rudny	Individual	Oppose	Written Testimony Only

Comments:

Aloha Honorable Senators,

I read the testimonies given at the last hearing. It's pretty obvious that most citizens are not supportive of this bill, but it still keeps moving forward for some reason. Please listen to the people and end this greatly flawed and divisive bill.

Mahalo for your time and attention.

Don Rudny

LATE

Subject: HB 2024 Testimony

Sen Keohokalole and Rep Kitagawa:

To Whom It May Concern:

I am not commenting on the change in the management structure from the University of Hawaii to the proposed Mauna Kea Stewardship and Oversight Authority. I am not knowledgeable enough to make any intelligent comment on which is better. However, I am very concerned about the makeup of the proposed Authority. HB 2024, HD 1 and SD 1, show at least four native Hawaiian voting members and only one voting member named by the Mauna Kea observatories. I firmly believe the scientific community must NOT have any fewer voting members than that of the native Hawaiian community. To do so will severely damage, or fatally destroy, the future of astronomical research on Mauna Kea. Science is too important to push it aside to appease the protest of a few. The results of an unscientific poll taken by the Honolulu Star-Advertiser showed OVERWHELMING support of the 30 meter telescope. There is a silent majority of citizens who support the continued astronomical research on Mauna Kea. Surely there is room for both sides to find adequate use of Mauna Kea for science and native Hawaiian culture.

There has been talk of STEM education from the State Legislature for many years. But what practical application do we have in this state? There are no large research companies, no large IT firms, no aerospace industry. Astronomical research on Mauna Kea is the only significant STEM endeavor we have in Hawaii. We cannot call for more STEM education on one hand and destroy our only practical application of it on the other. We must walk the walk and save science.

Thank you
James K. Townsend
46-240 Kalali St., Kaneohe 96744
(808) 779-2285

LATE

HB-2024-SD-1

Submitted on: 4/4/2022 12:15:07 PM

Testimony for WAM on 4/5/2022 10:30:00 AM

Submitted By	Organization	Testifier Position	Testify
Noel Morin	Individual	Oppose	Written Testimony Only

Comments:

I oppose this measure.

LATE

HB-2024-SD-1

Submitted on: 4/4/2022 12:15:44 PM

Testimony for WAM on 4/5/2022 10:30:00 AM

Submitted By	Organization	Testifier Position	Testify
Warren & Joan Chong	Individual	Oppose	Written Testimony Only

Comments:

Dear Senators on Ways & Means Committee,

I am part of a six-generation family that continues to live on the Big Island.

The controversy and divide regarding Mauna Kea management will be even more divisive because of lack of clear planning and direction that this bill creates. The management of the mountain has continued to improve over the years. The University of Hawaii understands and continues to implement the many concerns and, thus, have been forced to become a competent steward of these lands.

It is unwise to revisit and restart any procedures (and confusion) that this bill creates. The plan of action IS in place. It is not the time to divert and open-up avenues of the unknown.

Rather than create a new entity, the framework and management should remain within the University of Hawaii. They combine a growing cultural awareness with the scientific expertise necessary to maintain one of the finest astronomy sites on the planet for the benefit of Hawaii and the world.

The best outcome would be a simple rejection of HB 2024 HD1 SD1 by the Senate.

Sincerely,

Warren & Joan Chong

73-1390 Kaiminani Drive

Kailua-Kona, HI 96740

(808) 325-1060

LATE

HB-2024-SD-1

Submitted on: 4/4/2022 12:47:12 PM

Testimony for WAM on 4/5/2022 10:30:00 AM

Submitted By	Organization	Testifier Position	Testify
Ty Yun	Individual	Oppose	Written Testimony Only

Comments:

Aloha,

I am writing in opposition to HB2024. There is very little I can add to what my friend Andre Hassid has already submitted so I will just repeat his words of wisdom:

"The population of Hawaii is shrinking. Why? Because there are too few good paying jobs in our State. So young people are moving to the mainland. The medium pay for the Astronomy observatories is about \$100,000. The percentage of Hawaii raised people working at the observatories has steadily increased over the years, and we know that it is more economical for observatories to hire Hawaii residents than to import workers from the mainland. So why would we want to close down the Astronomy observatories, or make life impossible for them to stay on the cutting edge. It makes no economic sense. A recent study found that they contribute \$220 million to Hawaii's economy annually. This bill would throw it all away.

In 1960 a tsunami devastated Hilo and the Island of Hawaii's economy. Community efforts pushed for government support of astronomy on our Island to help revive the economy. The University of Hawaii commissioned a telescope on Mauna Kea in 1970. Other telescopes followed to revive the economy, including Canada-France-Hawaii Telescope, Subaru, Gemini, Keck I and Keck II. These world-famous telescopes provide construction, engineering, education, research and maintenance jobs on the Island of Hawaii. They also help attract and promote educators to fill our schools and educate our student community.

Telescopes should give a sense of pride to all Hawaiians as discovery after discovery is credited to Hawaii, and Hawaiian names are given to many discoveries. The astronomy community honors Hawaiian culture. Ouamuamua (scout) is the name given the first object ever discovered that came from outside our solar system. Hawaiian names (Ka'epaoka 'awela and Kamo'oalewa) were recently given to newly discovered asteroids by Hawaiian immersion students.

Telescopes on Hawaii Island have discovered the earliest galaxies to form in the Universe. They have been used to measure the mass of the Black Hole in the center of our Milky Way galaxy. Additionally, Hawaiian telescopes have discovered many planets in far away solar systems.

Flailing at the telescopes and the astronomy community is not the answer. Kill the telescopes and you kill the academic future of Hawaii. University educators in the fields of physics and astronomy will leave Hawaii and go to more welcoming and supportive communities. Without

astronomy on the Mauna, Hawaiian students inspired by the astronomy community will have no role models to follow in this field.

Support the telescopes and Hawaii will become the center of astronomy in the world, and Hawaii students will be the ones who become the astronomers of the future and win Nobel prizes.

Opponents of the telescopes on Mauna a Wakea try to paint the Astronomy community as being anti-Hawaiian culture. Nothing could be further from the truth. Are we to forget that telescopes were first brought to Hawaii by King Kalakaua who understood the deep connection between Hawaiian culture and the study of the stars?

Destroying the telescopes is a form of modern-day anti-knowledge, book burning. Let's not go down that road. The telescopes and Hawaiian culture can live side by side in harmony on the Mauna. Let the University continue to manage the mountain. Let the astronomy observatories continue to provide revenues to Hawaii's economy. Let it continue to give good paying jobs to Hawaii students and residents. We will not keep our young people in Hawaii if their only job prospect is in the hospitality industry."

Thank you and respectfully resubmitted,

Tyron Yun

LATE

HB-2024-SD-1

Submitted on: 4/4/2022 2:25:46 PM

Testimony for WAM on 4/5/2022 10:30:00 AM

Submitted By	Organization	Testifier Position	Testify
Aeae Ishibashi	Individual	Oppose	Written Testimony Only

Comments:

WAM COMMITTEE HB2024 SD1 APRIL 5, 2022

I am Wallace A Ishibashi Jr testifying in opposition to HB 2024 SD1 and any Senate version assigned to the Senate WAM committee. As the prior DHHL East Hawaii Commissioner I reject this bill and request the members of the WAM committee to oppose HB2024 SD1.

Based on the lack of proper information needed to make this bill effective and resolve the intent of the working group. The enormous lack of clear actions shows that this very important bill has been on the fast track to completion. This bill is far from complete as other testifiers has articulated. I cannot support giving a blank check to an invisible entity for unknown years to fill in the blanks as they see fit.

Example

“6 Oversight jurisdiction. (a) The authority shall have oversight jurisdiction of lands that are state—managed lands above the nine thousand two-hundred-foot elevation line on Maunakea. inclusive of Puu Huluhulu to the summit of Mauna Kea. “

Which is it 9200 foot elevation? or

6000 foot elevation? (6000 is where Puu Huluhulu is located), to the summit of Maunakea

“The authority shall have jurisdiction over the science reserve on Mauna Kea. (b) For lands not within the authority's oversight jurisdiction on Mauna Kea lands above the nine thousand two hundred foot elevation line, the authority shall enter into cooperative agreements, as necessary, with the department of Hawaiian home lands, county of Hawaii, and private landowners whose lands are within the jurisdictional boundaries.”

COOPERATIVE AGREEMENTS WITH DHHL there is no DHHL lands above 9200 ft elevation? But at 6000 ft elevation managing housing, agriculture, intensive agriculture, aquaculture, commercial, maricultural, special livestock, pasture, or industrial lease? There are no ranching or farming opportunities on the summit of Maunakea.

This bill is so convoluted and lack proper investigation just based on the above drafters of this ill bill don't even understand or haven't been to 6000 ft or 9200 ft don't understand the summit region. Sad rubber stampers.

Thank you for your time to oppose this ill drafted HB 2024 SD1.

LATE

Aloha Chair Dela Cruz, Vice Chair Keith-Agaran, and members of the Senate Ways and Means Committee,

I am writing today to testify AGAINST HB2024 SD1.

Changes to bill are good but not sufficient

I congratulate the senate on removing the most egregious violations of equal protection laws and religious freedom contained in HB2024 HB1 draft, such as the racial requirement for certain members of the proposed new Mauna Kea Management Board and the changing of Mauna Kea's name to "Mauna a Wakea". However, this bill, and more fundamentally the entire idea of replacing the University of Hawaii as the manager of Mauna Kea, remains a work in progress. At best this bill should be deferred indefinitely.

Try Partnering

At second best, this bill should be deferred until the next legislative session. During that time, a new less-protester oriented group of stakeholders should be convened for a partnering session on the future of Mauna Kea. The principal issue with past efforts to resolve the TMT issue has been the over-representation of protesters from the "Native Hawaiian" point of view, with no balancing group of Native Hawaiian supporters of astronomy on Mauna Kea. This group of stakeholders should be broad, erring on the side of inclusion, but the people it includes should be leaders in this discussion from government, protesters, and supporters of TMT from all parts of our community. The partnering session should begin with selecting a facilitator. Then there should be a 1 to 2 day "retreat" where all stakeholders have an opportunity to get to know one another. During this time, extensive discussions can be had about Mauna Kea and a "group memory" can be created from the session notes. A "problem escalation" ladder should be developed and a charter agreed to. A web-based platform for sharing all information should also be agreed to by the group. This method of discussion will result in a much more equitable management plan for Mauna Kea.

To the extent this effort continues, I have the following comments on HB2024 SD1:

A. **Positive Vision:** A guiding principle of this bill should be the creation of a better Hawaii for our keiki. It should state that creating a Hawaii with opportunities for our keiki to work, right here in Hawaii, in the most advanced scientific endeavors, is our dream and aspiration. It should state that it is our goal to perpetuate Hawaii's tradition of celestial navigation through contributions to global scientific exploration. It should declare that the people of Hawaii wish to share our aloha spirit with all the world through pono management of Mauna Kea and the awesome astronomical and beautiful natural resource that it represents.

B. **Ensure Protesters Cannot Prevent New Astronomy Leases Through**

Obfuscation and Delay: This cannot be said enough: we owe it to Hawaii's future, our keiki, to protect the incredible astronomy sector that we have built in Hawaii over the past 60 years, which is itself built on Hawaii's traditions of celestial navigation built over thousands of years. Section 4 of this bill concerning the transition period should explicitly state that the creation of this new body is not meant to destroy our beloved astronomy sector and that all current leases and permits will be respected by the new authority. **It should also state that if the authority does not negotiate new leases with the telescopes on Mauna Kea within 4 years that the Governor shall be empowered to renegotiate the leases so that we can ensure the perpetuation of our culture of astronomical observation.**

C. **Board Structure:** The new structure of the committee is much improved. However, there are still a few problematic items. First, what is "aina resource management" and how is that different from any other kind of land management in terms that do not require the establishment of a state-backed religion? Second, why would a "lineal descendent" of a practitioner of traditional and customary practices be on the board if there is already a slot for an actual practitioner? This item should be replaced with a representative from the Big Island, perhaps nominated by the Mayor and confirmed by the County Council. All the people of Hawaii Island enjoy recreation on Mauna Kea and that perspective should be represented.

D. **Section 4(b)(5)** requiring a management plan to involve "indigenous" management practices should be deleted as defining this is impossible and certainly not possible for this new entity.

E. **Section 4(b)(6)** should be deleted or modified to also include a statement similar to what I have described in A above.

F. **Astronomy Expansion:** Section 5 about the astronomy development framework is much improved as it no longer calls for the destruction of astronomy. However, if it is going to include negative statements about how we "may" plan for returning Mauna Kea to its "natural state", it should also include language stating that the plan "may" include the expansion of the astronomy sector if such expansion should be deemed necessary by our keiki at some point in the future.

G. **Deterrence:** The legislation should include amendments to criminal statutes to deter the blocking of public roadways. It should also be accompanied by written agreements from all protester groups that they will not protest the construction of the TMT. We must not allow another generation of Hawaii's keiki to have their lives ruined by misguided protests based on falsehoods.

H. **Religious Freedom:** All implications in this bill that Mauna Kea is "sacred" to all Native Hawaiians should be removed, specifically in section 7(c)(2). Mauna Kea is not sacred as a Native Hawaiian matter, as you can read about here: tinyurl.com/Hawaiians4TMT. While some people might maintain beliefs in the kapu religion, and as part of their belief think Mauna Kea is sacred, their beliefs are not authoritative as a Native Hawaiian matter. Hawaii's ali`i abolished the kapu religion over 200 years ago, as you can read about at hanahou.com/20.5/the-last-stand. Our constitution prohibits the government from establishing a religion. Thus, any mentions of sacredness must explain this nuance and explain that there are also Native Hawaiians who do not think Mauna Kea is sacred, or who think its sacredness is enhanced by the use of Mauna Kea for astronomy.

I. **Traditional and Customary Practices:** Mentions of "Hawaiian culture" should be replaced with "traditional and customary practices". To begin with, "Hawaiian culture" is probably trying to identify a "culture" that is determined by "Native Hawaiians". However, the only state agency capable of establishing what "Native Hawaiian culture" is would be OHA, and that is debatable. This board certainly will not be able to determine what is "Native Hawaiian" culture. This terminology should be replaced with respect for "traditional and customary practices", which is a legal term of art that has extensive case law underpinning it.

J. **Elevation Error:** Section 6 currently states that the authority shall have oversight from the 9200 foot level including Puu Huluhulu. 9200 feet is the Hale Pohaku mid-level facility. Puu Huluhulu is at around 3400 feet. Mention of Puu Huluhulu should be removed.

Mahalo nui loa,

Sam Kalanikupua King, Senate District 13



“I believe totally in getting the new telescope built on Mauna Kea. Our ancestors studied the heavens. Now a new generation of Hawaiians

can have the opportunity to advance what they discovered. A telescope that can accomplish this maintains the sacredness of the mountain. With this and in other ways, we need to be open to the future to carry us forward to the many tomorrows yet to come.”

– **Leimomi o Kamehae Kuamo'o Mo'okini Lum**

The Kahuna of Mo'okini Heeiau



“The historic legacy of Mauna Kea must continue its contribution to scientific knowledge.”

– **Judge Walter Meheula Heen**

First Director of the Office of Mauna Kea Management; former OHA Trustee



“I'm very proud to identify myself as a Native Hawaiian. At the same time, I'm also a scientist, I'm an astronomer and I believe that these two aspects

of me can coexist. And I believe that astronomy and the culture can coexist on Mauna Kea.”

– **Mailani Neal**

Native Hawaiian Astronomy Student; founder of We Support TMT petition



“As a Native Hawaiian, I believe Mauna Kea is a deeply spiritual place. We just need to have the collective will to share the Mauna.”

– **Kalepa Baybayan**

Master Navigator and Captain



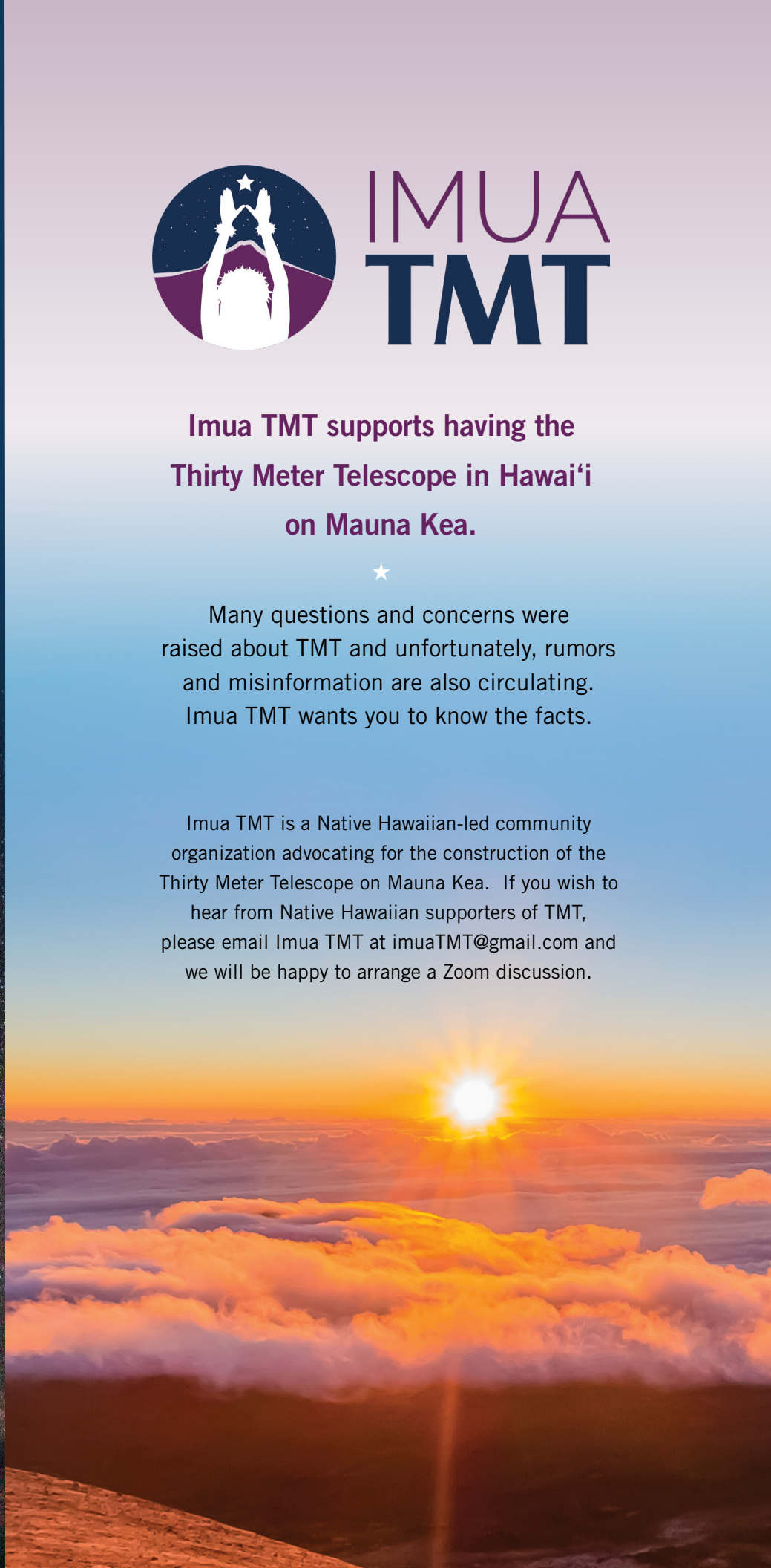
**IMUA
TMT**

Imua TMT supports having the Thirty Meter Telescope in Hawai'i on Mauna Kea.



Many questions and concerns were raised about TMT and unfortunately, rumors and misinformation are also circulating. Imua TMT wants you to know the facts.

Imua TMT is a Native Hawaiian-led community organization advocating for the construction of the Thirty Meter Telescope on Mauna Kea. If you wish to hear from Native Hawaiian supporters of TMT, please email Imua TMT at imuaTMT@gmail.com and we will be happy to arrange a Zoom discussion.



How Hawai'i Benefits from TMT



"We support astronomy in Hawai'i as a clean, sustainable industry. The best astronomy on the planet is from Mauna Kea. Astronomy is a

part of our stargazing, navigating heritage throughout Polynesia."

– **Malia Martin**
Founder, Imua TMT



"I think telescopes maintain the sanctity of the mauna, worshipping the sky through observation and servicing a goal of bringing

humankind closer to understanding creation of life in the universe. It isn't traditional but neither were the ahū erected on the mauna, which didn't diminish their sanctity to those who built it. It isn't Hawaiians versus desecration. It isn't a war on culture and science. It isn't an issue where only Native Hawaiians get to have a say because we are no longer the only ones who live here."

– **Kauionalani Onodera**
Mechanical Engineer



"I am in support of TMT and I can't wait to take my kids up there to look at the stars."

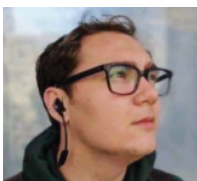
– **Ikaika Kamaiopili**
Native Hawaiian TMT Supporter



"I see Mauna Kea as a special place that allows us to understand and study our origins. As one's origin and genealogy are critical aspects

of Hawaiian culture, I view the pursuit of astronomy on Mauna Kea to be a beautiful blend of culture and science."

– **Heather Kaluna**
Astronomer, UH



"He kanaka 'ōiwi au ā me kāko'o au i ka 'ohe nānā kanakolu mika. I am a Native Hawaiian and I support the TMT."

– **Naea Stevens**
Native Hawaiian

■ **Educating Hawai'i's Keiki** – TMT launched The Hawai'i Island New Knowledge (THINK) Fund in 2014 to better prepare Hawai'i Island students to master STEM and to become the workforce for higher paying science and technology jobs in Hawai'i's 21st century economy. For the past five years TMT has made an annual contribution of \$1 million to the Fund. To date, through the Hawai'i Community Foundation and Pauahi Foundation, TMT has provided over \$5.5 million for Hawai'i Island students, their families and teachers.

■ **Paying Rent** – Since 2014 TMT has paid \$300,000 in lease rent. This will increase throughout construction to \$600,000 when the structure is built, \$700,000 when the instruments and mirrors are placed, and \$900,000 in the 10th year of construction. After that, TMT will pay \$1 million a year for the 50 years the the telescope is in operation.

\$800,000 of TMT's \$1,000,000 annual rent will go directly to the Office of Mauna Kea Management, which is responsible for enforcing the telescopes' leases, protecting Mauna Kea's environment, and preserving cultural sites.

■ **Native Hawaiian Programs** – 20% of TMT's annual \$1M lease rent will go to the Office of Hawaiian Affairs for the benefit of the native Hawaiian population it serves. \$250,000 of TMT's \$1M annual contributions to the THINK fund goes to the Pauahi Foundation, which provides college scholarships exclusively for Native Hawaiian students.

■ **Diversify the Economy** – TMT will bring hundreds of millions of dollars in construction revenue for Hawai'i-based companies. TMT will create 300 union construction jobs. TMT will allow the University of Hawai'i to attract billions of research dollars. TMT will revitalize the astronomy sector, ensuring future large-scale diversification of our economy.

■ **Long-Term Jobs on Hawai'i Island** – once completed, TMT will expend about \$40 million annually in observatory operations and employ about 140 employees. TMT's commitment is to fill these positions with as many Hawai'i residents as possible.

TMT will continue funding the seven-year-old Workforce Pipeline Program, and increase the funding to \$1 million dollars per year. This will continue the programs that will lead to a highly qualified pool of local workers.

■ **Scientific Research and Discoveries** – TMT will add to the best astronomical research in the world that is happening on Mauna Kea, cementing Hawai'i's reputation as the international leader in astronomical science. The University of Hawai'i's nationally recognized Institute for Astronomy will also benefit from the important infrastructure TMT will provide to enhance students' learning by studying the universe.

■ **TMT Support During COVID-19** – TMT donated \$100,000 to the The Food Basket – Hawai'i Island's food bank during COVID-19 lockdowns. TMT provided \$50,000 for an on-line STEM program in collaboration with Hawai'i Science and Technology Museum which launched at Hilo Intermediate School in June. TMT's Hawai'i staff have been sewing masks and donating them to an on-island foster children program!

RUMOR

REALITY

Mauna Kea is sacred to all Native Hawaiians

Any claim that Mauna Kea as a whole was sacred to Native Hawaiians was extinguished, as a Hawaiian matter, 200 years ago when Mo'i Liholiho aka Kamehameha II proclaimed "Ai noa", free eating, and broke the centuries old 'ai kapu by eating with his mother Keopuolani and Kuhina nui, Ka'ahumanu. Liholiho and his Kahuna Nui Hewahewa ordered the destruction of the kapu religion and its shrines. Liholiho then defeated the last adherents to the Kapu system at the Battle of Kuamo'o in 1819, ending once and for all any claims of special political status for the Kapu religion as a Hawaiian matter.

Furthermore, as explained by Kahuna Leimomi Lum, a telescope that can advance the celestial studies of our ancestors maintains the sacredness of Mauna Kea, even as a matter of Kapu doctrine.

Finally, there is actually no documented evidence that Mauna Kea was particularly sacred to Native Hawaiians in a way that prohibited digging on the summit or any use at all. Indeed, our ancestors mined rock out of Mauna Kea in an area 100 times the size of the TMT site.

TMT development plan does not respect Hawaiian cultural practices.

TMT site and its vicinity were not used for traditional and customary native Hawaiian practices conducted elsewhere on Mauna Kea, such as depositing piko, quarrying rock for adzes or gathering water from Lake Waiau.

The TMT site is not on the summit ridge which is arguably more important culturally than the plateau 500 feet lower where TMT will be built.

TMT's management plan for Mauna Kea specifically provides for cultural, ceremonial or religious activity.

TMT will block views from the summit ridge of the rising sun, setting sun, or Haleakalā.

One of the reasons for the choice of the TMT site was the fact that it cannot be seen from the actual summit or from Lake Waiau or Pu'u Liiinoe. The view of TMT from the summit is blocked by the northern ridge of Kukahau'ula. Where it would be visible, other large telescopes are already in view.

Contaminants from TMT — whether from construction or the observatory itself — will leach into the island's groundwater.

Hydrologists, both independent and paid to work on the EIS, have determined there is no reasonable prospect of adverse impact on groundwater. TMT will install a zero-discharge wastewater system, with all wastewater collected and transported off the mountain in double-lined tankers for proper treatment and disposal. The closest drinking water wells, at Waiki'i, are 12 miles away and those in Waimea, Hamakua, and Hilo are an even greater distance from the Mauna Kea summit area. The best hydrological data we have indicates that, even if contaminants were released in the summit region, it would take several thousand years to reach any existing drinking water well on Mauna Kea's flanks — a time much longer than natural degradation processes would require to completely break down any potential contaminants.

Hawaiians have not been heard regarding TMT.

There has been over a decade of litigation; two contested case hearings, the second of which lasted 44 days and heard from 71 witnesses; and an entire volume of the 3-volume EIS included letters and other input from many of the opponents (as well as supporters) of TMT. The truth is when pro-TMT Hawaiians speak up they are shouted down by the loud, vocal, minority protesting the telescope.

Mauna Kea is Crown Land therefore descendants living today own the mountain.

The last sovereign, Queen Lili'uokalani, placed all of her property in a charitable trust for the benefit of orphan and indigent Hawaiian children known as the, Queen Lili'uokalani Trust. She herself had no descendants.

It would be better to build TMT in place of one of the existing observatories.

The decision was made specifically to not place the TMT at the site of one of the existing summit ridge facilities. The reason was that doing so would require a large amount of grading, most of it in wekiu habitat, and because the visual impact would be much greater.

Dynamite will be used to prepare the TMT site for construction and TMT will be nuclear powered.

No dynamite will be used in the construction of TMT and TMT will not be nuclear powered. It will draw electricity from the Big Island's grid.

There remain culturally significant architectural sites or protected species at the TMT location.

Extensive environmental impact studies have identified no such areas on the five-acre site. The nearest site of cultural significance is located 200 yards away from the TMT location. Similarly, the wekiu bug — an insect endemic to the region that was once considered threatened (but is no longer) — nests in cinder cones that are not close to the TMT site and, other than on a small portion of the access road, will not be disturbed during construction.



"I'm a Hawaiian, and I fully understand the cultural and environmental effects TMT may have on Mauna Kea. But I also believe

that the scientific, financial, educational, and economic benefits that come with TMT will make vast improvements on the Big Island. Hawai'i can be the front runner for astronomy, something our ancestors always believe in. Imua TMT."

– **Bernard-Benjamin Villa**
UH Hilo, Performing Arts



"If Kamehameha I was ruling Mauna Kea today, he would build a heiau (temple) platform and mount the TMT on it."

– **Peter Apo**
Former Trustee, Office of Hawaiian Affairs



"The TMT is made up of the Pacific Rim nations of Canada, the US, Japan, India, and China. What better purpose can we aspire to than cooperation among

nations, rather than war? And what better place for cooperation than on Mauna Kea, in Hawai'i, the land of Aloha?"

– **Richard Ha**
Hawaiian Businessman



"As a resident of Hawai'i island, and a Native Hawaiian, I believe that our Island provides a living laboratory for science. From mauka to makai

we can access astronomy, volcanology, geology, and marine sciences. We need to be leaders in melding science and culture because as we already know, the Hawaiians had a strong and prospering society before western contact. Science can learn from us, and while we cannot go back, we can move forward together! Just as Hokulea relied on both traditional navigation supported by the instruments of their escort vessel, we need to find a way to embrace each other and become leaders for the world. "

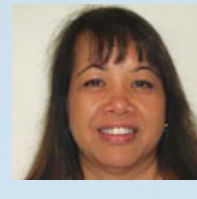
– **Angela Thomas**
Educator from Waimea



"The TMT project is like a search for the aumakua or ancestral origins of the universe. How is this any different from us as Native Hawaiians

searching for own roots in things both natural and spiritual?"

– **Wallace Ishibashi**
Senior Advisor, OMKM



"I am proud that my lineage includes both Native Hawaiian and Native American plus other Polynesian, European, and

Asian ancestry. I am grateful to have been born and raised in Hawai'i with Hawaiian values, thought processes, and traditions. AND I support TMT which does not mean that as a Native Hawaiian, all is forgotten and forgiven."

– **Jacqui Hoover**
Executive Director of Hawaii Island Economic Development Board



"The TMT is poised to make the most important discovery of all time: life on another planet. It'd be cool to

give that planet a Hawaiian name. A name that will spread the Hawaiian language to every corner of the globe and into perpetuity."

– **Chris King**
Computer Engineer



"The reason we support TMT is because we believe it is being done the right way. We really need these STEM jobs and Hawai'i Island is so limited.

We told them that we needed more funding for STEM education to pay their fair share of rent and they listened. They followed through."

– **Amber Imai-Hong**
Hawai'i Space Flight Laboratory



"I am a proud Hawaiian, I have true Aloha for our people of Hawai'i and the 'Aina. At the same time, I believe our world is ever changing, and

so must we. I believe in the importance of education, knowledge, and cultivating a desire to learn in our Keiki. Years ago, we arrived to these great lands, guided by the stars. Let the heavens guide us now. I support TMT."

– **Melanie Long**
Hawai'i Business Owner

"It will afford me unfeigned satisfaction if my kingdom can add its quota toward the successful accomplishment of the most important astronomical observation of the present century and assist, however humbly, the enlightened nations of the earth in these costly enterprises."

– **King David Kalākaua**
on Hawai'i's role in the observations of the Venus Transit of December 8, 1874



imuatmt.org

<https://tinyurl.com/ImuaTMTpanels>



"TMT will bring millions of dollars in investments and jobs to Hawai'i, while simultaneously ensuring that Hawai'i, its people,

and our ideas remain at the forefront of human scientific endeavor."

– **Samuel W. King II**
Attorney



HB-2024-SD-1

Submitted on: 4/4/2022 9:47:40 PM

Testimony for WAM on 4/5/2022 10:30:00 AM

Submitted By	Organization	Testifier Position	Testify
Evelyn C S Hascall	Individual	Comments	Written Testimony Only

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Mahalo nui loa,

Evelyn C S Hascall

Senate District 27

Davianna Pōmaika'i McGregor
1942 Naio St.
Honolulu, HI 96817

LATE

Testimony of Davianna Pōmaika'i McGregor in favor of
HB 2024, H.D. 1, S.D. 1 Relating to Mauna Kea
Senate Ways & Means Committee
Tuesday, April 5, 2022 @ 10:30am

Aloha Chair Donovan Dela Cruz, Vice-Chair Gilbert Keith-Agaran and members of the Senate Ways and Means Committee. I am Davianna Pōmaika'i McGregor, Professor of Ethnic Studies at the University of Hawai'i-Mānoa and I am testifying as a private individual in support of HB 2024, H.D.1, S.D.1 Relating to Mauna Kea, with suggested amendments.

I support the establishment of a Mauna A Wākea stewardship authority as the sole authority for management of state-managed lands on Mauna A Wākea. The University of Hawai'i (UH) has failed to protect Mauna A Wākea. The Hawai'i State Auditor's Office released reports in 1998, 2005, 2014 and 2017 which were critical of the management of the state-owned lands of Mauna A Wākea by the UH.

I suggest the following amendments:

(1) H.B. 2024 H.D. 1 recognized the four Kumu Kanawai as providing the cultural foundation for the management of the Mauna A Wākea. Respectfully, I recommend that H.B. 2024, H.D. 1, S.D. 1 be amended to also re-insert these four Kumu Kanawa as the cultural foundation to manage Mauna A Wākea:

(1.1) Ho'okiki Kanawai - the edict of continuum, in which flows of magma move, water basins flow; clouds move; air and ocean currents are active; and islands continue to be shaped, formed and conditioned naturally;

(1.2) Kua'ā Kanawai - the edict of gestating landscapes, in which craters erupt; marshes are active; coral heads are in season; and wet forest produces;

(1.3) Kai'okia Kanawai - the edict of natural boundaries, including the path of the sun, moon and stars from north, south, east and west; and vertical and horizontal divisions of land, ocean and space above; and

(1.4) Kiho'ihoi Kanawai - the edict of regeneration, that nature will fix itself, including immediate restoration of landscape after a flood, lava flow, windstorm and fire.

(2) Reinstate the name of the Authority to Mauna A Wākea Stewardship and Oversight Authority to indicate the cultural foundation for the Authority, without affecting the official name of the mountain.

(3) Reinstate a position for a Native Hawaiian individual with expertise in Native Hawaiian traditional and customary practices as was provided in the original version of H.B. 2024.

(4) Reinstate a section relating to eventual transfer of the lands under the management of the Mauna A Wākea Stewardship and Oversight Authority to the sovereign native Hawaiian entity utilizing language from HRS 6K-9 “**Transfer.** The lands under the jurisdiction of the authority shall be held in trust as part of the public land trust; provided that the State shall transfer management and control of the lands to the sovereign native Hawaiian entity upon its recognition by the United States and the State of Hawaii.”

In the past, the UH has failed to effectively acknowledge and consult with the Native Hawaiian community regarding education, outreach and cultural resources management for the Mauna. H.B. 2024, H.D. 1, S.D.1, with the suggested amendments, would provide for a culturally – based management of Mauna A Wākea with the participation of Native Hawaiian cultural practitioners.

At the state level, the Hawai‘i State Constitution has several articles and sections acknowledging the special trust relationship of the State of Hawai‘i government to the Native Hawaiian people. Article V. Section 4 states, "English and Hawaiian shall be the official language of Hawai‘i." Article X. Section 4 states: "The State shall promote the study of Hawaiian culture, history and language. Article XII adopted the Hawaiian Homes Commission Act into the Hawai‘i State Constitution, as mandated under the Admissions Act. Article XII. Section 5 established the Office of Hawaiian Affairs.

Article XII. Section 4 states: "The lands granted to the State of Hawai‘i by Section 5(b) of the Admission Act, excluding therefrom land defined as "available lands" by Section 203 of the Hawaiian Homes Commission Act 1920, as amended, shall be held by the state as a public trust for native Hawaiians and the general public." As Mauna A Wākea is part of the public trust for which Native Hawaiians are one of two beneficiaries, it is both fair and just to have Native Hawaiians serve as members of the stewardship authority for Mauna A Wākea.

Article XII. Section 7 states: “The State reaffirms and shall protect all rights, customarily and traditionally exercised for subsistence, cultural and religious purposes and possessed by ahupua‘a tenants who are descendants of native Hawaiians who inhabited the Hawaiian Islands prior to 1778, subject to the right of the State to regulate such rights.” Having Native Hawaiians who are lineal descendants of Hawaiian practitioners and are practitioners of traditional and customary Native Hawaiian beliefs, customs and practices serve on the stewardship authority for Mauna A Wākea is clearly fair and justified.

Act 195, passed by the Hawai‘i state legislature in 2015 formally recognized the Native Hawaiian people as the only indigenous, aboriginal, maoli people of Hawai‘i.

In summary, there is sufficient precedent and foundation for having a stewardship authority for Mauna A Wākea be rooted in the Hawaiian culture. Including Native Hawaiians cultural practitioners on the stewardship authority for Mauna A Wākea is more than justified, it is essential to the successful management of the Mauna as the Wao Akua that our ancestors acknowledged it to be. The University of Hawai‘i has allowed this most sacred mountain summit to become degraded to the point that commercial use of the summit has taken precedence over reverence and respect for it. It is timely to set up a stewardship authority to elevate the Mauna as our Native Hawaiian ancestors had done.

Let us bring to fruition the words that were offered by the Mauna a Wākea Working Group:

He lā hou kēia ma Mauna a Wākea.

A new day has indeed arrived on Mauna a Wākea.

Me ke aloha no Mauna a Wākea.

LATE

HB-2024-SD-1

Submitted on: 4/5/2022 9:21:25 AM

Testimony for WAM on 4/5/2022 10:30:00 AM

Submitted By	Organization	Testifier Position	Testify
Tammy Harp	Individual	Oppose	Written Testimony Only

Comments:

HB2040 HD1 SD1

Aloha Senator Dela Cruz, Chair; Senator Keith-Agaran, Vice Chair; Senators Inouye, Kanuha, Kidani, Misalucha Moriwaki, Shimabukuro, Taniguchi, Wakai, Fevella; Ways and Means Committee Members,

My name is Tammy Harp and I am in opposition of HB2024 HD1 SD1, Relating to Mauna Kea; as written.

Haste makes poho. The public's input was eliminated. The appointed Working Group was formed and made the choices. A hui had to FOIA to obtain information on the Working Group meetings. Now we're here, as public input based on a document that left the public in lala land as it was being conceived.

Two (2) Native Hawaiian seat(s) and where's kupuna seat? A total of three (3) seats set aside for Hawaii Island residents? Are the two Native Hawaiian seat(s) exempted from the total three resident seat(s)?

Mauna Kea deserves much more than what is being proposed. There is no alternate proposal in having no observatories. We do not have any continuity of environmental records for the Mauna being without observatories and its impact on weather for these Islands.

The eucalyptus forests of Hamakua, 'aihue the 'ua from South Kohala (*according to Papa Kihei Soli Niheu). Steal the rain from Waimea/South Kohala.

The Master Lease has a number of years left on it. In the mean time, better management proposals for the Mauna should gestate a little while longer and with greater public mana'o input.

Free The Mauna. Mauna a Wakea. Mauna Kea.

Mahalo for your time and consideration in this matter.

Tammy Harp

LATE

HB-2024-SD-1

Submitted on: 4/5/2022 10:54:28 AM

Testimony for WAM on 4/5/2022 10:30:00 AM

Submitted By	Organization	Testifier Position	Testify
Jay Henderson	Individual	Oppose	Written Testimony Only

Comments:

I strongly oppose HB2024. The University of Hawaii should continue to manage the observatory. Changing to someone else would destroy economic opportunity for 1000s of Big Island youth now suffering from chronic unemployment due to lack of openings. The University's plan is far better than what now exists. It is a dream worth supporting. An altar at the top of the world for all communications between the gods of Hawaii and the gods of the universe. Jay Henderson, Ala Moana

LATE

HB-2024-SD-1

Submitted on: 4/5/2022 11:07:48 AM

Testimony for WAM on 4/5/2022 10:30:00 AM

Submitted By	Organization	Testifier Position	Testify
Lois Langham	Individual	Oppose	Written Testimony Only

Comments:

This bill does not serve Hawaiians OR the people of Hawaii. It merely gives lip service to both sides.

LATE

HB-2024-SD-1

Submitted on: 4/5/2022 11:23:04 AM

Testimony for WAM on 4/5/2022 10:30:00 AM

Submitted By	Organization	Testifier Position	Testify
Arlene Twomey	Individual	Oppose	Written Testimony Only

Comments:

I am in opposition of HB2024. We need to share the mauna with our entire community and treat it with the needed/deserved environmental and cultural respect.

I agree that th UH performance in the past was not satisfactory. However, over the past 10 years they have significantly stepped up their efforts, commitment, listening and effectively responding. Is it perfect? No, but it is noteworty that the 2020 DLNR Independent Evaluation of UH's management of Maunakea concluded that the UH-managed lands on Maunakea are among the best managed state lands in Hawaii.

Actions proposed in HB2024 do not or address the issues and will not reduce or eliminate the acrimony that exists. And may drive off astronomy, marginalize Hawaii's urgent need to diversify our economy and stop the funding needed.HB2024 reflects a narrowly focused conversation and will broadcast to "the world" that Hawaii is not a place to do business and not to be trusted.

Please defer action. This bill is very harmful to our children and future.