HOUSE OF REPRESENTATIVES THIRTY-FIRST LEGISLATURE, 2022 STATE OF HAWAII H.B. NO. <sup>2024</sup> H.D. 1 S.D. 2

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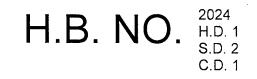
#### A BILL FOR AN ACT

RELATING TO MAUNA KEA.

#### BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1	PART I
2	SECTION 1. The purpose of this Act is to establish the
3	Mauna Kea stewardship and oversight authority and a transition
4	and governance structure for the management of Mauna Kea lands.
5	SECTION 2. The Hawaii Revised Statutes is amended by
6	adding a new chapter to be appropriately designated and to read
7	as follows:
8	"CHAPTER
9	MAUNA KEA STEWARDSHIP AND OVERSIGHT AUTHORITY
9 10	MAUNA KEA STEWARDSHIP AND OVERSIGHT AUTHORITY S -1 Findings and purpose. The legislature finds that
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10	<b>§ -1 Findings and purpose.</b> The legislature finds that
10 11	<b>§ -1 Findings and purpose.</b> The legislature finds that Mauna Kea serves as an important cultural and genealogical site
10 11 12	<b>§ -1 Findings and purpose.</b> The legislature finds that Mauna Kea serves as an important cultural and genealogical site to the people of Hawaii, particularly to Native Hawaiians. The
10 11 12 13	<b>§</b> -1 Findings and purpose. The legislature finds that Mauna Kea serves as an important cultural and genealogical site to the people of Hawaii, particularly to Native Hawaiians. The summit region of Mauna Kea is a spiritual and special place of

- 17 site for astronomical study, which produces many significant
- 18 discoveries that contribute to humanity's study and HB2024 CD1 LRB 22-2038-10.doc

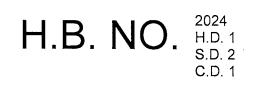


1 understanding of the universe. However, in recent years, Mauna 2 Kea has come to symbolize a rigid dichotomy between culture and 3 science, often leading to polarization between stakeholders on 4 Mauna Kea and local communities. This is a dynamic that plays 5 out over many issues in many places. The critical significance 6 of Mauna Kea for both culture and science offers an urgent and 7 unique opportunity to surmount the dichotomy and develop new 8 ways to mutually steward Mauna Kea. Therefore, a reformation of 9 the stewardship of Mauna Kea is an issue of the highest priority 10 in the State.

11 To commence the resolution of these issues to protect Mauna 12 Kea and bring about a more harmonious coexistence of uses atop 13 the mountain, the legislature has established the Mauna Kea 14 stewardship and oversight authority and the governance structure 15 contained in this chapter to protect Mauna Kea for future 16 generations and manage the lands contained therein for the 17 purpose of fostering a mutual stewardship paradigm in which 18 ecology, the environment, natural resources, cultural practices, 19 education, and science are in balance and synergy.

20 The legislature also recognizes that the enactment of this21 chapter is a pivot point that will require a transition, during

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which many principles and details will yet need to be
 ascertained. It is expected that amendments and additions will
 need to be made in future legislative sessions to ensure a
 mutually beneficial balance is always maintained for Mauna Kea
 and the people of Hawaii.

6 The legislature declares that the creation of the Mauna Kea 7 stewardship and oversight authority and the transition and 8 governance structure established in this chapter serve the 9 public interest and are matters of statewide concern.

10 § -2 Definitions. As used in this chapter, unless the
11 context otherwise requires:

12 "Authority" means the Mauna Kea stewardship and oversight.13 authority.

14 "Chairperson" means the chairperson of the authority.

15 "Lease" means the contractual right to possess and use a
16 specified portion of land for a term of years.

17 "Mauna Kea land area" or "Mauna Kea lands" means lands18 under the state lease, as defined in this chapter.

19 "Person" includes an individual, a partnership, a
20 corporation, or an association, except as otherwise defined in
21 this chapter.

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"State lease" means all leases and easements between the
board of land and natural resources and the University of Hawaii
pertaining to Mauna Kea that are in effect as of July 1, 2022,
including that certain lease by and between the board of land
and natural resources and the University of Hawaii entered into
on June 21, 1968, as General Lease S-4191, as amended on
September 21, 1999, as General Lease S-5529.

8 -3 Mauna Kea stewardship and oversight authority; S 9 established. (a) There is established the Mauna Kea 10 stewardship and oversight authority, which shall be a body 11 corporate and a public instrumentality of the State for the 12 purpose of implementing this chapter. The authority shall serve 13 jointly with the University of Hawaii in fulfilling the 14 obligations and duties under the state lease for a period of 15 five years as established in section -6. The authority shall 16 be placed within the department of land and natural resources 17 for administrative purposes; provided that section 26-35 shall 18 not apply to the authority.

(b) The authority shall consist of eleven voting members;
provided that all members listed under paragraphs (4), (5), (6),
(7), (8), (9), and (10) shall be appointed by the governor and

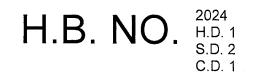
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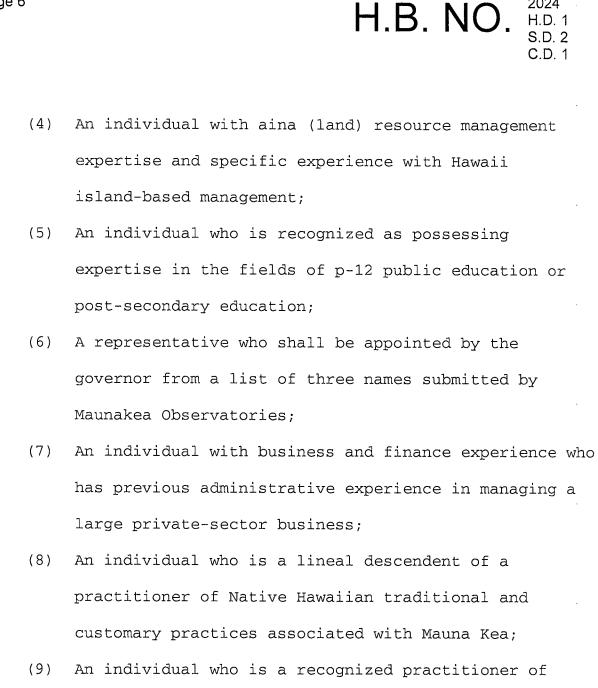
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1	subject t	o confirmation by the senate pursuant to section 26-34.
2	If a past	member of the University of Hawaii board of regents is
3	appointed	to fill the seat described in paragraph (3), the
4	appointee	shall be subject to confirmation by the senate
5	pursuant	to section 26-34. The chancellor of the University of
6	Hawaii at	Hilo shall serve as an ex officio, nonvoting member.
7	The votin	g members shall include:
8	(1)	The chairperson of the board of land and natural
9		resources, or the chairperson's designee;
10	(2)	The mayor of the county of Hawaii, or the mayor's
11		designee;
12	(3)	The chairperson of the board of regents of the
13		University of Hawaii; provided that the chairperson of
14		the University of Hawaii board of regents may
15		designate a:
16		(A) Member of the board of regents; or
17		(B) Past member of the board of regents with
18		experience with Mauna Kea,
19		to serve as the chairperson of the University of
20		Hawaii board of regents' designee;

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- Native Hawaiian traditional and customary practices;and
- 19 (10) Two members who shall be appointed by the governor
  20 from a list of three names submitted for each
  21 appointment by the president of the senate and speaker

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1 of the house of representatives, respectively; 2 provided that if fewer than three names are submitted 3 for either appointment, the governor may disregard the 4 list;

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5 provided further that not less than three of the eleven members 6 of the authority shall be residents of the county of Hawaii. 7 Any designee appointed pursuant to paragraphs (1), (2), or (3) 8 shall serve the entire term of the appointing authority unless 9 the designee resigns from office or is otherwise incapable of 10 serving out the entire term for good cause shown.

11 A majority of all members to which the authority is 12 entitled shall constitute a quorum to do business, and the 13 concurrence of a majority of all members shall be necessary to 14 make any action of the authority valid. All members shall 15 continue in office until their respective successors have been 16 appointed and confirmed by the senate; provided that a member shall not hold over beyond the first legislative session 17 18 following the expiration of the member's term of service. 19 (C) The governor shall appoint the chairperson of the 20 authority from the members appointed pursuant to paragraphs (4),

(5), (7), (8), (9), or (10) of subsection (b). If the governor

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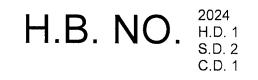
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1 appoints a person as chairperson who is not a sitting member of 2 the authority, the governor shall designate that appointee as 3 the chairperson prior to transmitting the appointment to the 4 senate for confirmation. If the governor appoints a sitting 5 member of the authority to serve as chairperson, the member 6 appointed to serve as chairperson shall not be subject to an 7 additional confirmation by the senate unless the member's term 8 expires and the member is subsequently reappointed to the 9 authority. If the chairperson resigns or is unable to fulfill 10 the duties of the position, the authority may elect a vice 11 chairperson from its membership to serve as the acting 12 chairperson until a successor is appointed by the governor and, 13 if needed, confirmed by the senate.

Members and staff shall be reimbursed for expenses incurred in the performance of their duties, including reasonable travel expenses for authority-related business as approved by the authority, subject to applicable laws and administrative rules.
(d) Notwithstanding section 26-34(a), with respect to

19 length and amount of terms, the members of the authority shall
20 serve for a term of three years and shall not serve more than

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4	
1	three partial or full terms; provided that the initial terms
2	shall be staggered, as determined by the governor.
3	(e) The authority shall utilize the existing University of
4	Hawaii center for Mauna Kea stewardship staff and organization
5	during the transitional period, and may engage other services as
6	needed; provided that the authority shall appoint a board
7	secretary, who shall also serve as executive assistant to the
8	authority, without regard to chapters 76 and 89.
9	(f) The authority shall establish its offices at the
10	University of Hawaii at Hilo, Imiloa astronomy center or another
11	suitable location or facility within the county of Hawaii.
12	<b>§ -4 Values and principles.</b> The authority may adopt and
13	be guided by the following operational values and principles:
14	(1) Mauna Aloha - Understanding the reciprocal value of
15	the mauna and a long-term commitment to maintaining
16	the integrity of Mauna Kea;
17	(2) Opu Kupuna - Understanding and embracing a duty and
18	accountability to Mauna Kea, the natural environment,
19	and to perpetuate the Native Hawaiian traditional and
20	customary practices embedded in the landscape of the
21	mauna; and

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1	(3)	Holomua Oi Kelakela - Driven by creativity and
2		innovation, constantly challenging the status quo,
3		with a stewardship of Mauna Kea that is informed based
4		on existing knowledge and traditions, as well as on
5		new and expanding knowledge. The authority shall be
6		mindful and observant of needs, trends, and
7		opportunities and seek new knowledge and opportunities
8		in ways that enhance the ability to serve as stewards
9		without jeopardizing the foundation of aina aloha.
10	S	-5 Powers and responsibilities; generally. (a)
11	Except as	otherwise limited by this chapter, the authority, as
12	it pertain	ns to the Mauna Kea land area, may:
13	(1)	Make and execute contracts, leases, and all other
14		instruments necessary or convenient for the exercise
15		of its powers and functions under this chapter;
16	(2)	Make and alter bylaws for its organization and
17		internal management;
18	(3)	Adopt rules pursuant to chapter 91 for the purposes of
19		this chapter;
20	(4)	Conduct meetings in accordance with chapter 92 for the
21		purposes of this chapter;

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1	(5)	Appoint officers, agents, and employees who may be
2		exempt from chapter 76, prescribe their duties and
3		qualifications, and fix their salaries;
4	(6)	Provide advisory, consultative, training, and
5		educational services; technical assistance; and advice
6		to any person, partnership, or corporation, either
7		public or private, to carry out the purposes of this
8		chapter, and engage the services of consultants on a
9		contractual basis for rendering professional and
10		technical assistance and advice;
11	(7)	Procure insurance against any loss in connection with
12		its property and other assets and operations in
13		amounts and from insurers as it deems desirable;
14	(8)	Contract for and accept gifts or grants in any form
15		from any public agency or from any other source;
16	(9)	Adopt rules governing the procurement and purchase of
17		goods, services, and construction, subject to the
18		requirements of chapter 103D;
19	(10)	Enter into cooperative agreements, easements,
20		subleases, or other contracts, as necessary, with any
21		state agency, county agency, or private landowner;

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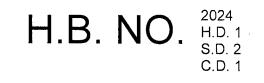
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1 Contract for executive and administrative employee (11)2 services; 3 (12)Call upon the attorney general for legal services or 4 employ its own counsel in conformity with section 5 28-8.3; and 6 (13) Do any and all things necessary to carry out its 7 purposes and exercise the powers granted in this 8 chapter. 9 (b) Notwithstanding any other law to the contrary, the 10 authority shall: 11 (1)Be the principal authority for the management of 12 state-managed lands within the Mauna Kea lands; 13 (2) Provide oversight and protect traditional and 14 customary Native Hawaiian rights, as set forth in the 15 Hawaii State Constitution, and not unduly burden 16 individuals exercising these rights; 17 (3) Establish a process that provides and ensures 18 transparency, analysis, and justification for lease 19 terms of its land and monetary consideration that is 20 equitable, feasible, and financially sustainable;

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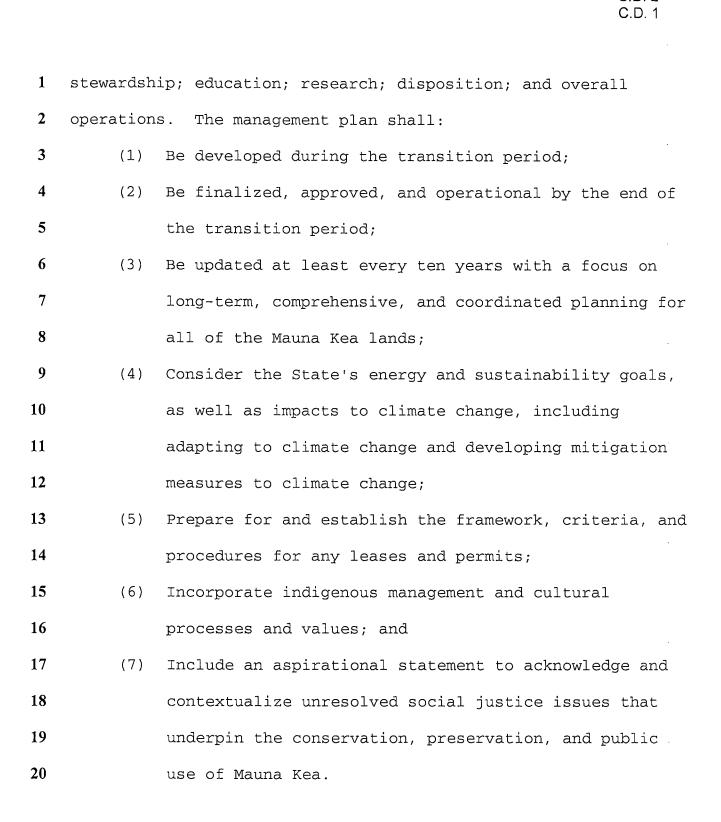
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1	(4)	Be prohibited from selling, gifting, transferring, or
2		exchanging land under its control;
3	(5)	Engage in community dialogue, outreach, engagement,
4		and consultation processes, as appropriate, on
5		significant matters on at least an annual basis and
6		more frequently, as needed; and
7	(6)	Consider various supplemental revenue sources to be
8		deposited into the Mauna Kea management special fund,
9		to the extent permitted by law.
10	S	-6 Transition; management plan. (a) The authority
10 11	_	-6 Transition; management plan. (a) The authority e a transition period of five years beginning July 1,
	shall hav	
11	shall hav 2023; pro	e a transition period of five years beginning July 1,
11 12	shall hav 2023; pro confirmed	e a transition period of five years beginning July 1, vided that all of the initial members have been
11 12 13	shall hav 2023; pro confirmed authority	e a transition period of five years beginning July 1, vided that all of the initial members have been by the senate. During the transition period, the
11 12 13 14	shall hav 2023; pro- confirmed authority Universit	e a transition period of five years beginning July 1, vided that all of the initial members have been by the senate. During the transition period, the shall jointly manage Mauna Kea lands with the
11 12 13 14 15	shall hav 2023; pro- confirmed authority University operation	e a transition period of five years beginning July 1, vided that all of the initial members have been by the senate. During the transition period, the shall jointly manage Mauna Kea lands with the y of Hawaii; provided that the authority's day-to-day

19 (b) The authority shall develop a management plan to
20 govern land uses; human activities, other uses, and access,
21 including permitted uses for frequent and seasonal users;

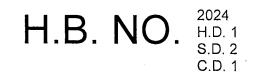
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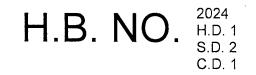
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1	(C)	The authority shall adopt a financial plan that
2	strives f	or the financial self-sustainability of the authority
3	after the	sixth year following the transitional period
4	establish	ed in subsection (a).
5	(d)	The authority shall be responsible for the
6	establish	ment of a framework for astronomy-related development
7	on Mauna 🗄	Kea. The framework may include:
8	(1)	Limitations on the number of observatories and
9		astronomy-related facilities, or an astronomy facility
10		footprint limitation;
11	(2)	Prioritizing the reuse of footprints of observatories
12		that are scheduled for decommissioning, or have been
13		decommissioned, as sites for facilities or
14		improvements over the use of undeveloped lands for
15		such purposes; and
16	(3)	A set of principles for returning the lands used for
17		astronomy research to their natural state whenever
18		observatories are decommissioned or no longer have
19		research or educational value.
20	(e)	During the transition period, the authority may take

21 any actions necessary to prepare for the assumption of total





1 authority over Mauna Kea lands at the end of the transition

2 period, including the adoption of rules pursuant to

3 section -13(b).

4 (f) Notwithstanding any other law to the contrary, 5 commencing on the effective date of this chapter and until the 6 expiration of the transition period, no new lease shall be 7 issued and no existing lease shall be renewed involving any 8 Mauna Kea lands; provided that, upon the expiration of an existing lease during the transition period, a lessee may 9 10 continue to hold the land as a holdover, subject to any terms and conditions as may be mutually agreed upon by the authority. 11 12 and University of Hawaii.

13 § -7 Authority after transition period. (a) Following 14 the end of the transition period pursuant to section -6, the 15 department of land and natural resources, University of Hawaii, and all other departments and agencies of the State shall be 16 17 subject to the oversight of the authority with regard to the 18 control and management of Mauna Kea lands. Subject to 19 section -5 and upon the direction of the authority, the department of land and natural resources shall: 20

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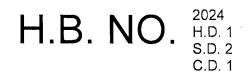
(1) Implement controls and permitted uses of Mauna Kea
 lands;

3 (2) Enforce this chapter;

4 (3) Provide administrative support to the authority; and
5 (4) Authorize those of its employees as it deems
6 reasonable and necessary to serve and execute warrants
7 and arrest offenders or issue citations in all matters
8 relating to the enforcement of the laws and rules
9 applicable to Mauna Kea lands.

10 (b) Notwithstanding any law to the contrary, all powers and duties of the board of land and natural resources pursuant 11 12 to chapter 171, and the land use commission pursuant to chapter 205, concerning permits, dispositions, land use approvals, and 13 14 any other approvals pertaining to the Mauna Kea lands are 15 transferred to the authority upon the expiration of the transition period; provided that the transfer of such powers and 16 17 duties from the board of land and natural resources and the land 18 use commission may occur earlier, upon approval of the authority, the board of land and natural resources, and the land 19 20 use commission. Upon the expiration of the transition period, the authority shall carry out the powers and duties otherwise 21

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1 conferred upon the board of land and natural resources pursuant 2 to chapter 171, and the land use commission pursuant to chapter 3 205, with regard to permits, dispositions, land use approvals, 4 and any other approvals pertaining to the Mauna Kea lands.

5 S -8 Astronomy development; declaration of policy; 6 reserved viewing or observing time and other requirements. (a) It is declared that the support of astronomy consistent with 7 8 section -1 is a policy of the State.

9 (b) Beginning after the transition period has expired, any 10 lease executed by the authority for an astronomical observatory 11 shall include reserved viewing or observing time of not less 12 than seven per cent of the total amount of viewing or observing 13 time provided by the astronomical observatory for the University 14 of Hawaii, as negotiated by the authority. The university shall give priority on the use of the reserved viewing or observing 15 16 time to projects that include the participation of:

- 17 (1) Hawaii students, including:
- 18
- (A) Graduate and undergraduate students of the 19 University of Hawaii;
- 20 (B) Students of Hawaii public schools operated by the 21 department of education; and

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(C) Students from any other school, public or
 private, in which education is provided to
 students in the medium of the Hawaiian language,
 in whole or in part, or that includes a Hawaiian
 language proficiency requirement for graduation;
 and

7 (2) Projects curated and submitted by the University of
8 Hawaii at Hilo Imiloa astronomy center.

9 (c) The authority shall develop, negotiate, and execute
10 agreements that promote astronomy. This includes education,
11 training, employment, and professional development opportunities
12 for state residents.

(d) The university shall submit an annual report on the use of the reserved viewing or observing time, including the application of the priorities listed in subsection (b), to the authority and legislature no later than twenty days prior to the convening of each regular session, commencing with the regular session immediately succeeding the expiration of the transition period established in section -6.

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1	S	-9 Advisory groups. (a) The authority shall
2	establish	advisory groups to advise the authority in its
3	managemen	t of Mauna Kea.
4	(b)	Any advisory groups established pursuant to this
5	section s	hall convene regularly and be consulted on a broad
6	range of	issues relating to their respective purview.
7	§	-10 Annual report. The authority shall submit an
8	annual re	port to the legislature no later than twenty days prior
9	to the co	nvening of each regular session, beginning with the
10	regular s	ession of 2024. Each annual report shall include:
11	(1)	A review of the authority's management actions;
12	(2)	A review of the implementation of all legislatively
13		required plans, including financial and management
14		reports, budgets, expenditures, and plans;
15	(3)	A review of the human uses of the natural and cultural
16		resources of Mauna Kea and the impacts of the human
17		uses on these resources;
18	(4)	A review of the commercial uses of the natural and
19		cultural resources of Mauna Kea and the impacts of the
20		commercial uses on these resources;
21	(5)	An assessment of cumulative impacts to Mauna Kea;

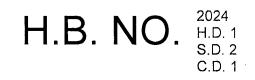
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1	(6) A review of all community dialogue, outreach,
2	engagement, and consultation; and
3	(7) A review of the University of Hawaii's use of its
4	reserved viewing or observing time.
5	§ -11 Access and use; restrictions; orientation;
6	entryway. (a) The authority may limit commercial use and
7	activities of the Mauna Kea lands and may adopt rules pursuant
8	to chapter 91 to designate areas for permissible use.
9	(b) The authority may require an application for all
10	recreational uses, including fees, and create guidelines on
11	potential limits by monitoring the social, safety, and
12	conservation impacts of recreational use over time.
13	(c) The authority may require all individuals accessing
14	Mauna Kea lands to undergo an annual orientation anchored by the
15	authority's guiding operational values and principles; provided
16	that all employees, contractors, leaseholders, and others who
17	regularly access Mauna Kea shall have more extensive training on
18	the authority's guiding operational values and principles
19	pursuant to section -4.

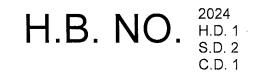
20 § -12 Lease provisions; generally. Each lease issued by
21 the authority shall contain the following provisions:





1	(1)	The specific use or uses to which the land is to be
2		employed;
3	(2)	The improvements required; provided that a minimum
4		reasonable time be allowed for the completion of the
5		improvements;
6	(3)	Restrictions against alienation;
7	(4)	The rent, as established by independent appraisal or
8		rules of the authority, or both, or at public auction,
9		which shall be payable not more than one year in
10		advance, in monthly, quarterly, semiannual, or annual
11		payments;
12	(5)	Where applicable, adequate protection of forests,
13		watershed areas, game management areas, wildlife
14		sanctuaries, and public hunting areas, reservation of
15		rights-of-way and access to other public lands, public
16		hunting areas, game management areas, or public
17		beaches, and prevention of nuisance and waste;
18	(6)	If the lease is for an astronomical observatory,
19		reserved viewing or observing time in accordance with
20		section -8(b); and

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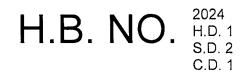


1 (7) Other terms and conditions as the authority deems advisable to more nearly effectuate the purposes of 2 3 the Hawaii State Constitution and of this chapter. 4 In addition to any other rulemaking S -13 Rules. (a) 5 powers authorized under this chapter, the authority may adopt 6 rules pursuant to chapter 91 on the management, stewardship, 7 oversight, and protection of Mauna Kea lands and cultural resources. The rules adopted under this section shall follow 8 9 existing laws, rules, ordinances, and regulations as closely as is consistent with standards to meet minimum requirements of 10 good design, health, safety, and coordinated development. 11

(b) The authority may adopt rules before the end of the
transitional five-year period established in section -6;
provided that the rules shall not go into effect until the
transition period is completed.

16 § -14 Contested cases. (a) Chapter 91 shall apply to
17 every contested case arising under this chapter except where
18 chapter 91 conflicts with this chapter, in which case this
19 chapter shall apply. Any other law to the contrary
20 notwithstanding, including chapter 91, any contested case under
21 this chapter shall be appealed from a final decision and order

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1 or a preliminary ruling that is of the nature defined by section 91-14(a) upon the record directly to the supreme court for final 2 3 decision. Only a person aggrieved in a contested case 4 proceeding provided for in this chapter may appeal from the final decision and order or preliminary ruling. For the 5 purposes of this section, the term "person aggrieved" includes 6 7 an agency that is a party to a contested case proceeding before that agency or another agency. 8

9 (b) The court shall give priority to contested case
10 appeals of significant statewide importance over all other civil
11 or administrative appeals or matters and shall decide these
12 appeals as expeditiously as possible.

13 § -15 Mauna Kea management special fund. (a) There is
14 established the Mauna Kea management special fund into which
15 shall be deposited:

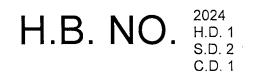
16 (1) Appropriations from the legislature;

17 (2) Moneys from supplemental sources as authorized by the
18 authority, pursuant to the powers granted by this
19 chapter;

20

(3) Any grant or donation made to the special fund; and

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(4) Any interest earned on the balance of the special
 fund.

3 (b) Proceeds from the special fund shall be used for
4 administration, capital improvement projects, and other purposes
5 pursuant to this chapter.

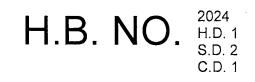
6 S -16 Issuance of bonds. The director of finance, from
7 time to time, may issue general obligation bonds pursuant to
8 chapter 39 in amounts authorized by the legislature for the
9 purposes of this chapter."

10 SECTION 3. Section 28-8.3, Hawaii Revised Statutes, is 11 amended as follows:

12 1. By amending subsection (a) to read:

13 "(a) No department of the State other than the attorney 14 general may employ or retain any attorney, by contract or 15 otherwise, for the purpose of representing the State or the 16 department in any litigation, rendering legal counsel to the 17 department, or drafting legal documents for the department; 18 provided that the foregoing provision shall not apply to the 19 employment or retention of attorneys:





1	(1)	By the public utilities commission, the labor and
2		industrial relations appeals board, and the Hawaii
3		labor relations board;
4	(2)	By any court or judicial or legislative office of the
5		State; provided that if the attorney general is
6		requested to provide representation to a court or
7		judicial office by the chief justice or the chief
8		justice's designee, or to a legislative office by the
9		speaker of the house of representatives and the
10		president of the senate jointly, and the attorney
11		general declines to provide such representation on the
12		grounds of conflict of interest, the attorney general
13		shall retain an attorney for the court, judicial, or
14		legislative office, subject to approval by the court,
15		judicial, or legislative office;
16	(3)	By the legislative reference bureau;
17	(4)	By any compilation commission that may be constituted
18		from time to time;
19	(5)	By the real estate commission for any action involving
20		the real estate recovery fund;

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1	(6)	By the contractors license board for any action
2		involving the contractors recovery fund;
3	(7)	By the office of Hawaiian affairs;
4	(8)	By the department of commerce and consumer affairs for
5		the enforcement of violations of chapters 480 and
6		485A;
7	(9)	As grand jury counsel;
8	(10)	By the Hawaii health systems corporation, or its
9		regional system boards, or any of their facilities;
10	(11)	By the auditor;
11	(12)	By the office of ombudsman;
12	(13)	By the insurance division;
13	(14)	By the University of Hawaii;
14	(15)	By the Kahoolawe island reserve commission;
15	(16)	By the division of consumer advocacy;
16	(17)	By the office of elections;
17	(18)	By the campaign spending commission;
18	(19)	By the Hawaii tourism authority, as provided in
19		section 201B-2.5;
20	(20)	By the division of financial institutions;
21	(21)	By the office of information practices;



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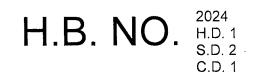
1 By the school facilities authority; [or] (22) 2 By the Mauna Kea stewardship and oversight authority; (23) 3 or 4 [(23)] (24) By a department, if the attorney general, for 5 reasons deemed by the attorney general to be good and sufficient, declines to employ or retain an attorney 6 7 for a department; provided that the governor waives 8 the provision of this section." 9 2. By amending subsection (c) to read: 10 "(c) Every attorney employed by any department on a full-time basis, except an attorney employed by the public 11 12 utilities commission, the labor and industrial relations appeals board, the Hawaii labor relations board, the office of Hawaiian 13 14 affairs, the Hawaii health systems corporation or its regional 15 system boards, the department of commerce and consumer affairs in prosecution of consumer complaints, insurance division, the 16 17 division of consumer advocacy, the University of Hawaii, the Hawaii tourism authority as provided in section 201B-2.5, the 18 19 Mauna Kea stewardship and oversight authority, the office of 20 information practices, or as grand jury counsel, shall be a 21 deputy attorney general."



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1	SECT	ION 4. Section 76-16, Hawaii Revised Statutes, is			
2	amended by	y amending subsection (b) to read as follows:			
3	"(b)	The civil service to which this chapter applies shall			
4	comprise	all positions in the State now existing or hereafter			
5	established and embrace all personal services performed for the				
6	5 State, except the following:				
7	(1)	Commissioned and enlisted personnel of the Hawaii			
8		National Guard as such, and positions in the Hawaii			
9		National Guard that are required by state or federal			
10		laws or regulations or orders of the National Guard to			
11		be filled from those commissioned or enlisted			
12		personnel;			
13	(2)	Positions filled by persons employed by contract where			
14		the director of human resources development has			
15		certified that the service is special or unique or is			
16		essential to the public interest and that, because of			
17		circumstances surrounding its fulfillment, personnel			
18		to perform the service cannot be obtained through			
19		normal civil service recruitment procedures. Any such			
20		contract may be for any period not exceeding one year;			

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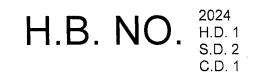
1	(3)	Positions that must be filled without delay to comply
2		with a court order or decree if the director
3		determines that recruitment through normal recruitment
4		civil service procedures would result in delay or
5		noncompliance, such as the Felix-Cayetano consent
6		decree;
7	(4)	Positions filled by the legislature or by either house
8		or any committee thereof;
9	(5)	Employees in the office of the governor and office of
10		the lieutenant governor, and household employees at
11		Washington Place;
12	(6)	Positions filled by popular vote;
13	(7)	Department heads, officers, and members of any board,
14		commission, or other state agency whose appointments
15		are made by the governor or are required by law to be
16		confirmed by the senate;
17	(8)	Judges, referees, receivers, masters, jurors, notaries
18		public, land court examiners, court commissioners, and
19		attorneys appointed by a state court for a special
20		temporary service;

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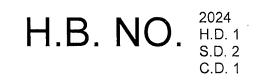
One bailiff for the chief justice of the supreme court (9) 1 who shall have the powers and duties of a court 2 3 officer and bailiff under section 606-14; one secretary or clerk for each justice of the supreme 4 court, each judge of the intermediate appellate court, 5 and each judge of the circuit court; one secretary for 6 the judicial council; one deputy administrative 7 director of the courts; three law clerks for the chief 8 justice of the supreme court, two law clerks for each 9 associate justice of the supreme court and each judge 10 of the intermediate appellate court, one law clerk for 11 each judge of the circuit court, two additional law 12 clerks for the civil administrative judge of the 13 circuit court of the first circuit, two additional law 14 clerks for the criminal administrative judge of the 15 circuit court of the first circuit, one additional law 16 clerk for the senior judge of the family court of the 17 first circuit, two additional law clerks for the civil 18 motions judge of the circuit court of the first 19 circuit, two additional law clerks for the criminal 20 motions judge of the circuit court of the first 21





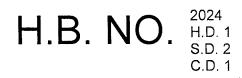
circuit, and two law clerks for the administrative 1 judge of the district court of the first circuit; and 2 one private secretary for the administrative director 3 of the courts, the deputy administrative director of 4 the courts, each department head, each deputy or first 5 assistant, and each additional deputy, or assistant 6 deputy, or assistant defined in paragraph (16); 7 First deputy and deputy attorneys general, the 8 (10)administrative services manager of the department of 9 the attorney general, one secretary for the 10 administrative services manager, an administrator and 11 any support staff for the criminal and juvenile 12 justice resources coordination functions, and law 13 clerks; 14 Teachers, principals, vice-principals, complex 15 (11)(A) area superintendents, deputy and assistant 16 superintendents, other certificated personnel, 17 not more than twenty noncertificated 18 administrative, professional, and technical 19 personnel not engaged in instructional work; 20

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1		(B)	Effective July 1, 2003, teaching assistants,
2			educational assistants, bilingual/bicultural
3			school-home assistants, school psychologists,
4			psychological examiners, speech pathologists,
5			athletic health care trainers, alternative school
6			work study assistants, alternative school
7			educational/supportive services specialists,
8			alternative school project coordinators, and
9			communications aides in the department of
10			education;
11		(C)	The special assistant to the state librarian and
12			one secretary for the special assistant to the
13			state librarian; and
14		(D)	Members of the faculty of the University of
15			Hawaii, including research workers, extension
16			agents, personnel engaged in instructional work,
17			and administrative, professional, and technical
18			personnel of the university;
19	(12)	Empl	oyees engaged in special, research, or
20		demo	onstration projects approved by the governor;

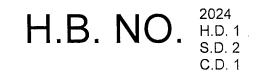
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1	(13)	(A)	Positions filled by inmates, patients of state
2			institutions, persons with severe physical or
3			mental disabilities participating in the work
4			experience training programs;
5		(B)	Positions filled with students in accordance with
6			guidelines for established state employment
7			programs; and
8		(C)	Positions that provide work experience training
9			or temporary public service employment that are
10			filled by persons entering the workforce or
11			persons transitioning into other careers under
12			programs such as the federal Workforce Investment
13			Act of 1998, as amended, or the Senior Community
14			Service Employment Program of the Employment and
15			Training Administration of the United States
16			Department of Labor, or under other similar state
17			programs;
18	(14)	A cu	stodian or guide at Iolani Palace, the Royal
19		Maus	oleum, and Hulihee Palace;
20	(15)	Posi	tions filled by persons employed on a fee,

21 contract, or piecework basis, who may lawfully perform





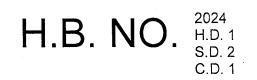
their duties concurrently with their private business 1 or profession or other private employment and whose 2 duties require only a portion of their time, if it is 3 impracticable to ascertain or anticipate the portion 4 of time to be devoted to the service of the State; 5 Positions of first deputies or first assistants of 6 (16)7 each department head appointed under or in the manner provided in section 6, article V, of the Hawaii State 8 9 Constitution; three additional deputies or assistants 10 either in charge of the highways, harbors, and 11 airports divisions or other functions within the department of transportation as may be assigned by the 12 director of transportation, with the approval of the 13 governor; four additional deputies in the department 14 of health, each in charge of one of the following: 15 behavioral health, environmental health, hospitals, 16 and health resources administration, including other 17 functions within the department as may be assigned by 18 the director of health, with the approval of the 19 governor; an administrative assistant to the state 20

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1		librarian; and an administrative assistant to the		
2		superintendent of education;		
3	(17)	Positions specifically exempted from this part by any		
4		other law; provided that:		
5		(A) Any exemption created after July 1, 2014, shall		
6		expire three years after its enactment unless		
7		affirmatively extended by an act of the		
8		legislature; and		
9		(B) All of the positions defined by paragraph (9)		
10		shall be included in the position classification		
11		plan;		
12	(18)	Positions in the state foster grandparent program and		
13		positions for temporary employment of senior citizens		
14		in occupations in which there is a severe personnel		
15		shortage or in special projects;		
16	(19)	Household employees at the official residence of the		
17		president of the University of Hawaii;		
18	(20)	Employees in the department of education engaged in		
19		the supervision of students during meal periods in the		
20		distribution, collection, and counting of meal		





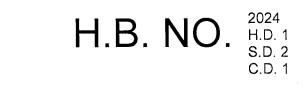
1		tickets, and in the cleaning of classrooms after
2		school hours on a less than half-time basis;
3	(21)	Employees hired under the tenant hire program of the
4		Hawaii public housing authority; provided that not
5		more than twenty-six per cent of the authority's
6		workforce in any housing project maintained or
7		operated by the authority shall be hired under the
8		tenant hire program;
9	(22)	Positions of the federally funded expanded food and
10		nutrition program of the University of Hawaii that
11		require the hiring of nutrition program assistants who
12		live in the areas they serve;
13	(23)	Positions filled by persons with severe disabilities
14		who are certified by the state vocational
15		rehabilitation office that they are able to perform
16		safely the duties of the positions;
17	(24)	The sheriff;
18	(25)	A gender and other fairness coordinator hired by the
19		judiciary;
20	(26)	Positions in the Hawaii National Guard youth and adult
21		education programs;





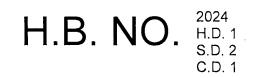
1	(27)	In the state energy office in the department of
2		business, economic development, and tourism, all
3		energy program managers, energy program specialists,
4		energy program assistants, and energy analysts;
5	(28)	Administrative appeals hearing officers in the
6		department of human services;
7	(29)	In the Med-QUEST division of the department of human
8		services, the division administrator, finance officer,
9		health care services branch administrator, medical
10		director, and clinical standards administrator;
11	(30)	In the director's office of the department of human
12		services, the enterprise officer, information security
13		and privacy compliance officer, security and privacy
14		compliance engineer, and security and privacy
15		compliance analyst;
16	(31)	The Alzheimer's disease and related dementia services
17		coordinator in the executive office on aging;
18	(32)	In the Hawaii emergency management agency, the
19		executive officer, public information officer, civil
20		defense administrative officer, branch chiefs, and
21		emergency operations center state warning point





1	personnel; provided that, for state warning point
2	personnel, the director shall determine that
3	recruitment through normal civil service recruitment
4	procedures would result in delay or noncompliance;
5	[and
6	<pre>+](33)[+] The executive director and seven full-time</pre>
7	administrative positions of the school facilities
8	authority[-]; and
9	(34) Positions in the Mauna Kea stewardship and oversight
10	authority.
11	The director shall determine the applicability of this
12	section to specific positions.
13	Nothing in this section shall be deemed to affect the civil
14	service status of any incumbent as it existed on July 1, 1955."
15	SECTION 5. (a) The Mauna Kea stewardship and oversight
16	authority shall:
17	(1) Study and recommend whether a reserve should be
18	established that specifically preserves Mauna Kea
19	lands for natural, ecological, archaeological, and
20	historical preservation; cultural practice;
21	rehabilitation, revegetation, and habitat restoration;





1 and educational purposes. If the Mauna Kea
2 stewardship and oversight authority recommends that a
3 reserve be established, the authority shall also make
4 a recommendation on the lands to be included within
5 the reserve;

- 6 (2) Conduct an assessment on whether the University of
  7 Hawaii school of astronomy should be relocated, in
  8 whole or in part, to the University of Hawaii at Hilo;
  9 and
- 10 (3) Include in its study and report any other information
  11 on issues relating to the management and protection of
  12 Mauna Kea it deems appropriate.

13 (b) The Mauna Kea stewardship and oversight authority14 shall submit:

- 15 (1) An interim report of its findings and recommendations,
  16 including any proposed legislation, to the legislature
  17 no later than twenty days prior to the convening of
  18 the regular session of 2024; and
- 19 (2) A final report of its findings and recommendations,20 including any proposed legislation, to the legislature

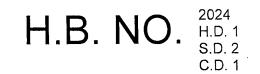
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no later than twenty days prior to the convening of 1 2 the regular session of 2025. SECTION 6. The auditor shall conduct a performance and 3 financial audit of the Mauna Kea stewardship and oversight 4 authority and shall submit a report on findings and 5 recommendations to the legislature no later than twenty days 6 7 prior to the convening of the regular session of 2031. 8 PART II SECTION 7. (a) On July 1, 2028, all rights, powers, 9 functions, and duties of the University of Hawaii relating to 10 the powers and responsibilities granted to the Mauna Kea 11 stewardship and oversight authority under part I of this Act are 12 transferred to the Mauna Kea stewardship and oversight 13 14 authority. (b) Notwithstanding the transfer of all rights, powers, 15 functions, and duties pursuant to subsection (a), the state 16 lease by and between the board of land and natural resources and 17 the University of Hawaii entered into on June 21, 1968, as 18 General Lease S-4191, as amended on September 21, 1999, as 19 General Lease S-5529, shall remain in full force and effect 20 until its expiration unless otherwise specifically amended 21

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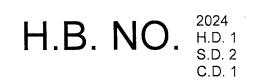


pursuant to an agreement by the Mauna Kea stewardship and
 oversight authority and the University of Hawaii.

(c) Upon the assignment of all rights, powers, and duties 3 of the University of Hawaii to the Mauna Kea stewardship and 4 oversight authority pursuant to subsection (a), the University 5 of Hawaii shall be released from any and all obligations under 6 the state lease by and between the board of land and natural 7 resources and the University of Hawaii entered into on June 21, 8 1968, as General Lease S-4191, as amended on September 21, 1999, 9 as General Lease S-5529, and any conservation district use 10 application permits appertaining thereto, unless otherwise 11 specifically agreed upon pursuant to an agreement by the Mauna 12 Kea stewardship and oversight authority and the University of 13 Hawaii; provided that the transfer and release authorized under 14 this subsection shall not apply to any litigation pending on 15 June 30, 2028, relating to General Lease S-4191, as amended on 16 September 21, 1999, as General Lease S-5529, or any conservation 17 district use application permit appertaining thereto, to which 18 the University of Hawaii is a party. 19

20 (d) Notwithstanding subsection (b) or any action that is a
21 consequence of this Act, including a merger of interests,

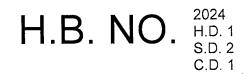
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effective July 1, 2028, every reference to the department of 1 land and natural resources, board of land and natural resources, 2 or the chairperson of the board of land and natural resources in 3 4 those deeds, leases, subleases, contracts, loans, agreements, permits, or other documents relating to Mauna Kea lands shall be 5 construed as a reference to the Mauna Kea stewardship and 6 oversight authority or the chairperson of the authority, as 7 appropriate; provided that all deeds, leases, subleases, 8 contracts, loans, agreements, permits, or other documents 9 executed or entered into prior to the effective date of this 10 Act, by or on behalf of the department of land and natural 11 resources or the board of land and natural resources pursuant to 12 the Hawaii Revised Statutes that are reenacted or made 13 applicable to the Mauna Kea stewardship and oversight authority 14 by this Act, shall remain in full force and effect until its 15 expiration unless otherwise specifically amended pursuant to an 16 agreement by the Mauna Kea stewardship and oversight authority 17 and the University of Hawaii. 18

19 SECTION 8. (a) All employees who occupy civil service
20 positions and whose functions are transferred to the Mauna Kea
21 stewardship and oversight authority by this Act shall retain

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their civil service status, whether permanent or temporary. 1 Employees shall be transferred without loss of salary, seniority 2 3 (except as prescribed by applicable collective bargaining agreements), retention points, prior service credit, any 4 vacation and sick leave credits previously earned, and other 5 rights, benefits, and privileges, in accordance with state 6 personnel laws and this Act; provided that the employees possess 7 the minimum qualifications and public employment requirements 8 for the class or position to which transferred or appointed, as 9 applicable; provided further that subsequent changes in status 10 may be made pursuant to applicable civil service and 11 compensation laws. 12

Any employee who, prior to this Act, is exempt from 13 (b) civil service and is transferred as a consequence of this Act 14 may retain the employee's exempt status but shall not be 15 appointed to a civil service position as a consequence of this 16 Act. An exempt employee who is transferred by this Act shall 17 not suffer any loss of prior service credit, vacation or sick 18 leave credits previously earned, or other employee benefits or 19 privileges as a consequence of this Act; provided that the 20 employees possess legal and public employment requirements for 21

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the position to which transferred or appointed, as applicable;
provided further that subsequent changes in status may be made
pursuant to applicable employment and compensation laws. The
executive director of the center for Mauna Kea stewardship may
prescribe the duties and qualifications of these employees and
fix their salaries without regard to chapter 76, Hawaii Revised
Statutes.

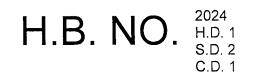
8 SECTION 9. All appropriations, records, equipment, 9 machines, files, supplies, contracts, books, papers, documents, 10 maps, and other personal property heretofore made, used, 11 acquired, or held by the University of Hawaii relating to the 12 functions transferred to the Mauna Kea stewardship and oversight 13 authority shall be transferred with the functions to which they 14 relate.

15

#### PART III

16 SECTION 10. During the transition period, the University 17 of Hawaii board of regents and president shall exercise the 18 authority granted to them by part IV, subpart 0, of chapter 19 304A, Hawaii Revised Statutes, only to the extent as necessary 20 to allow the Mauna Kea stewardship and oversight authority, 21 established pursuant to part I of this Act, to assume authority

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of Mauna Kea lands pursuant to this Act; provided that the 1 2 University of Hawaii board of regents and the president of the 3 University of Hawaii shall cooperate and work collaboratively with the authority to support and ensure the successful 4 transition of stewardship and oversight of the Mauna Kea lands; 5 provided further that the University of Hawaii at Hilo shall 6 7 provide all necessary support to the Mauna Kea stewardship and joint oversight during the transition period consistent with the 8 9 purposes of this Act, including equitably funding the authority 10 and University of Hawaii.

11

#### PART IV

SECTION 11. Chapter 304A, part IV, subpart O, Hawaii
Revised Statutes, is repealed.

14 SECTION 12. Section 304A-2170, Hawaii Revised Statutes, is 15 repealed.

16 ["<del>[§304A-2170] Mauna Kea-lands-management special fund.</del>

17 (a) - There is established the Mauna Kea lands management special

18 fund, -into which shall be deposited:

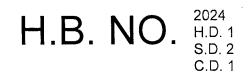
19 (1) Appropriations by the legislature;

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1	<del>(2)</del>	All net rents from leases, licenses, and permits,
2		including fees and charges for the use of land and
3		facilities within the Mauna Kea lands;
4	<del>(3)</del>	All moneys collected for violations of subpart O of
5		part IV; and
6	<del>(4)</del>	Interest carned or accrued on moneys in the special
7		fund.
8	<del>-(b)</del>	The proceeds of the special fund shall be used for:
9	<del>(1)</del>	Managing the Mauna Kea lands, including maintenance,
10		administrative expenses, salaries and benefits of
11		employees, contractor services, supplies, security,
12		equipment, janitorial services, insurance, utilities,
13		and other operational expenses; and
14	- <del>(2-)</del> -	Enforcing-administrative rules adopted relating to the
15		Mauna Kea lands.
16	<del>-(c)</del>	No moneys deposited into the Mauna Kea lands
17	managemen	t special fund may be used by the governor or the
18	director-	of finance as a justification for reducing any budget
19	<del>request c</del>	or allotment to the University of Hawaii unless the
20	Universit	-y-of-Hawaii-requests-the-reduction.

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1	(d) The University of Hawaii may establish separate
2	accounts within the special fund for major program activities.
3	(e) All expenditures from the special fund shall be
4	subject to legislative appropriation.
5	(f) For the purposes of this section, "Mauna Kea lands"
6	shall-mean the same as defined in section 304A-1901."]
7	PART V
8	SECTION 13. The University of Hawaii shall commence and
9	complete the timely decommissioning of the California Institute
10	of Technology (Caltech) Submillimeter Telescope and the
11	University of Hawaii at Hilo Hoku Kea Teaching Telescope as
12	determined by the Mauna Kea stewardship and oversight authority.
13	PART VI
14	SECTION 14. There is appropriated out of the general
15	revenues of the State of Hawaii the sum of \$14,000,000 or so
16	much thereof as may be necessary for fiscal year 2022-2023 for
17	startup and transition planning costs for the Mauna Kea
18	stewardship and oversight authority, including the hiring of one
19	full-time equivalent (1.0 FTE) executive assistant position, who
20	shall also serve as secretary to the authority, and who shall be

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exempt from chapter 76, Hawaii Revised Statutes, to support the
 Mauna Kea stewardship and oversight authority.

3 The sum appropriated shall be expended by the Mauna Kea
4 stewardship and oversight authority for the purposes of this
5 Act.

6 SECTION 15. There is appropriated out of the general 7 revenues of the State of Hawaii the sum of \$350,000 or so much 8 thereof as may be necessary for fiscal year 2022-2023 for K-12 9 public education programs in astronomy-related fields of 10 learning at the University of Hawaii at Hilo, Imiloa astronomy 11 center.

12 The sum appropriated shall be expended by the University of13 Hawaii at Hilo for the purposes of this Act.

SECTION 16. On the close of business on June 30, 2028, all moneys in the Mauna Kea lands management special fund established pursuant to section 304A-2170, Hawaii Revised Statutes, shall be deposited in the Mauna Kea management special fund established pursuant to section -15, Hawaii Revised Statutes, in part I, section 2, of this Act.

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1	PART VII
2	SECTION 17. Statutory material to be repealed is bracketed
3	and stricken. New statutory material is underscored.
4	SECTION 18. This Act shall take effect on July 1, 2022;
5	provided that part IV shall take effect on July 1, 2028.





#### Report Title:

Mauna Kea Stewardship and Oversight Authority; Established; Appropriation

#### Description:

Establishes the Mauna Kea Stewardship and Oversight Authority as the sole authority for the management of Mauna Kea lands. Requires the Authority to manage land uses; human activities, other uses, and access; stewardship; education; research; disposition; and overall operations on its respective lands. Authorizes the Authority to develop a framework to allow astronomy development on Mauna Kea. Declares astronomy as a state policy. Requires the Authority to establish advisory groups. Allows the Authority to limit certain commercial use and activities on Mauna Kea on its respective jurisdictional lands. Provides certain restrictions on leases and a moratorium on new leases. Requires the timely decommissioning of certain telescopes. Allows the Authority to require an application and fee for all recreational users of Mauna Kea. Establishes the Mauna Kea management special fund. Transfers rights, duties, and positions from the University of Hawaii to the Authority. Exempts positions under the Authority from civil service requirements. Requires an audit of the Mauna Kea Stewardship and Oversight Authority. Appropriates funds. (CD1)

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

