



1 as well as modern science and technology on Mauna Kea so that  
2 all can co-exist in the twenty-first century.

3 The legislature further finds that the protection and  
4 preservation of Mauna Kea through proper management and  
5 stewardship is of statewide concern. Since 1998, four audits by  
6 the state auditor have been critical of the management,  
7 stewardship, and protection of Mauna Kea. Although significant  
8 changes have occurred on Mauna Kea since the 1998 audit,  
9 negative experiences over the past fifty years have eroded  
10 public confidence and demonstrated the critical need for fresh  
11 leadership centered on a new organizational structure,  
12 management system, and procedures.

13 Accordingly, the legislature finds that there is a clear  
14 need for one entity to serve as a single focal point of  
15 management, responsibility, communication, and enforcement  
16 regarding Mauna Kea. This new entity will increase the  
17 accountability of all tenants on Mauna Kea and will ensure that  
18 each tenant is aware of its obligations and responsibilities.  
19 This entity will also provide the necessary stewardship for the  
20 sustainable use of Mauna Kea and the proper generation of  
21 revenue from that use. This entity will be headquartered on the



1 island of Hawaii and will be recognized by the general public  
2 and the State as the single point of contact for Mauna Kea's  
3 summit region. The legislature intends that this new entity  
4 will be led by a board whose members have no inherent conflicts  
5 of interest regarding Mauna Kea, and who will provide the  
6 requisite level of independence, objectivity, competence,  
7 relevant expertise, commitment, and willingness to be engaged in  
8 order for the new entity to achieve its goals. In addition, it  
9 is the legislature's intent that the authority shall be  
10 self-funded and not require appropriations from the State's  
11 general fund. The authority shall be a new model for governance  
12 and management of Hawaii's most precious resources. Revenues  
13 generated by the authority will primarily be used for the  
14 management and proper stewardship of the approximately eleven  
15 thousand four hundred acres of lands on Mauna Kea under the  
16 authority's jurisdiction. The legislature further intends for  
17 the new entity to supersede all existing entities that are  
18 responsible for the management and stewardship of Mauna Kea.

19 The purpose of this Act is to establish a Mauna Kea  
20 management authority.



1           §     -2 **Definitions.** As used in this chapter, unless the  
2 context otherwise requires:

3           "Authority" means the Mauna Kea management authority.

4           "Mauna Kea" means the mountain on the island of Hawaii,  
5 known variously as Mauna Kea, Maunakea, Mauna a Wakea, Mauna O  
6 Wakea, Ka Mauna a Kea, or Mauna Akea, and including all real  
7 property identified in part II of this Act.

8           §     -3 **Mauna Kea management authority; established.** (a)

9 There is established the Mauna Kea management authority, which  
10 shall be a body corporate and a public instrumentality of the  
11 State for the purpose of implementing this chapter. The  
12 authority shall be temporarily attached to the office of the  
13 governor for administrative purposes.

14           (b) The authority shall consist of nine voting members who  
15 shall be subject to section 26-34. The members shall include:

16           (1) The director of business, economic development, and  
17                tourism;

18           (2) Members of private organizations, who shall be invited  
19                by the governor to participate as follows:



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- 1           (A) The president of the Association of Hawaiian  
2           Civic Clubs, who shall serve as an ex officio  
3           member;
- 4           (B) The president of the East-West Center, who shall  
5           serve as an ex officio member;
- 6           (C) One member of the Native Hawaiian Bar Association  
7           who shall be selected by the governor from among  
8           three nominations provided by the board of  
9           directors of the Native Hawaiian Bar Association;
- 10          (D) One member who shall be selected by the governor  
11          from among three nominations provided by the  
12          Queen Liliuokalani Trust, The King William  
13          Charles Lunalilo Trust, and Kamehameha Schools,  
14          respectively;
- 15          (E) One representative of a statewide business  
16          organization; and
- 17          (F) One representative of a business organization on  
18          the island of Hawaii;
- 19          (3) One member of a private organization who shall be  
20          invited by the president of the senate; and



1           (4) One member of a private organization who shall be  
2           invited by the speaker of the house of  
3           representatives;  
4 provided that no individual who has an inherent conflict of  
5 interest regarding any entity involved in the management, lease,  
6 sublease, or operation of any real property or other property  
7 under the jurisdiction of the authority may serve as a member of  
8 the authority; and provided further that any ex officio member  
9 with a conflict of interest that violates this subsection shall  
10 immediately designate from within the member's organization an  
11 appropriate designee to serve on the authority in that member's  
12 stead.

13           A majority of all members shall constitute a quorum to do  
14 business, and the concurrence of a majority of all members shall  
15 be necessary to make any action of the authority valid. All  
16 members shall continue in office until their respective  
17 successors have been appointed and qualified. Except for the  
18 director of business, economic development, and tourism, no  
19 members appointed under this subsection shall be an officer or  
20 employee of the State or its political subdivisions.



1 (c) The authority shall appoint an executive director who  
2 shall be the chief executive officer. The authority shall set  
3 the salary of the executive director, who shall serve at the  
4 pleasure of the authority and shall be exempt from chapter 76.

5 (d) The authority shall annually elect the chairperson and  
6 vice chairperson from among its members.

7 (e) The members of the authority appointed under  
8 subsection (b) shall be compensated commensurately with trustees  
9 of the office of Hawaiian affairs pursuant to section 10-9;  
10 provided that salary and all expenses under this subsection  
11 shall be paid exclusively from the Mauna Kea management  
12 revolving fund under section -8.

13 (f) The authority's day-to-day operations shall be led by  
14 the executive director, who shall be accountable to the  
15 authority. The authority's organizational structure shall  
16 include but not be limited to six divisions as follows:

17 (1) Enforcement, which shall be led by a chief enforcement  
18 officer and include communication center operators,  
19 rangers and other law enforcement officers pursuant to  
20 section -13, and other staff. This division shall  
21 be responsible for the health, safety, and welfare of



1 visitors to Mauna Kea, including responding to  
2 emergencies of a medical or law enforcement nature,  
3 and for the protection of natural resources;

4 (2) Culture and the environment, which shall be led by a  
5 chief culture and environment officer and be  
6 responsible for the protection, preservation, and  
7 appreciation of cultural and environmental resources  
8 within the authority's managed areas. This division  
9 shall work with lineal descendants, community members,  
10 environmentalists, and individuals traditionally  
11 associated with cultural resources on Mauna Kea  
12 through appropriate programs of research, planning,  
13 and stewardship. This division shall also work with  
14 the state historic preservation division and the  
15 Hawaii island burial council, as necessary;

16 (3) Revenue management, which shall be led by a chief  
17 financial officer and be responsible for the fiscal  
18 management of all financial resources associated with  
19 the Mauna Kea summit, observatories, Hale Pohaku,  
20 visitor center, and all commercial activities,  
21 including budget and accounting functions. A





1 certified public accountant shall be a member of the  
2 division staff;

3 (4) Operations, which shall be led by a chief operations  
4 officer and be responsible for planning and organizing  
5 operations to achieve maximum efficiency and for the  
6 daily management and oversight of Mauna Kea's  
7 facilities, parks, trails, and natural and cultural  
8 resources. This division shall also manage the entry  
9 and access center, cultural and visitor center, all  
10 infrastructure within the authority's jurisdiction,  
11 the Mauna Kea access road, and all water, wastewater,  
12 and power functions associated with summit and Hale  
13 Pohaku operations;

14 (5) Legal, which shall be led by a chief legal officer and  
15 general counsel and shall be responsible for  
16 overseeing all applications of all laws, court  
17 decisions, and rules pertaining to the authority, and  
18 shall include attorneys who shall be responsible for  
19 the management of contracts, subleases, memoranda of  
20 understanding, and memoranda of agreement entered into  
21 by the authority; and



1           (6) Community relations, which shall be led by a chief  
2           community relations officer and be responsible for  
3           strengthening community engagement and education  
4           through grants, scholarships, and community benefits  
5           programs. Community relations staff shall work in  
6           coordination with community and business groups, the  
7           department of education, and the University of Hawaii  
8           to prepare local residents for careers in the science,  
9           technology, engineering, and mathematics fields. This  
10          division shall also coordinate interactive educational  
11          opportunities for Mauna Kea visitors and develop a  
12          summit access program and a peace park concept at Hale  
13          Pohaku.

14          §     -4 Powers and responsibilities; generally. The  
15          authority shall hold title to the lands situated on Mauna Kea  
16          and identified in section     -2 and shall establish access,  
17          stewardship, and management policies for Mauna Kea, including  
18          but not limited to policies pertaining to the protection of  
19          natural and cultural resources, all recreational activities, and  
20          all commercial uses.



1           Except as otherwise limited by this chapter, the authority  
2 may:

- 3           (1) Sue and be sued;
- 4           (2) Have a seal and alter the same at pleasure;
- 5           (3) Make and execute contracts, leases, and all other  
6           instruments necessary or convenient for the exercise  
7           of its powers and functions under this chapter;
- 8           (4) Make and alter bylaws for its organization and  
9           internal management;
- 10          (5) Adopt rules pursuant to chapter 91 for the purposes of  
11          this chapter;
- 12          (6) Through its executive director, appoint officers,  
13          agents, and employees, prescribe their duties and  
14          qualifications, and fix their salaries, without regard  
15          to chapter 76, and subject to chapter 89;
- 16          (7) Prepare or cause to be prepared a current and  
17          comprehensive management plan for all aspects of  
18          public and private access and use of Mauna Kea;
- 19          (8) Provide advisory, consultative, training, and  
20          educational services, technical assistance, and advice  
21          to any person, partnership, or corporation, either



- 1 public or private, to carry out the purposes of this  
2 chapter, and engage the services of consultants on a  
3 contractual basis for rendering professional and  
4 technical assistance and advice;
- 5 (9) Procure insurance against any loss in connection with  
6 its property and other assets and operations in  
7 amounts and from insurers as it deems desirable;
- 8 (10) Contract for and accept gifts or grants in any form  
9 from any public agency or from any other source;
- 10 (11) Adopt rules governing the procurement and purchase of  
11 goods, services, and construction, subject to the  
12 requirements of chapter 103D;
- 13 (12) Enforce laws and rules within all areas under the  
14 jurisdiction of the authority, pursuant to  
15 sections -3(f)(1) and -13;
- 16 (13) Do any and all things necessary to carry out its  
17 purposes and exercise the powers given and granted in  
18 this chapter; and
- 19 (14) Review, revise, and update as necessary all management  
20 plans for Mauna Kea, including but not limited to the  
21 2000 Mauna Kea science reserve master plan, the 2009



1           Mauna Kea comprehensive management plan, the cultural  
2           resources management plan, the natural resources  
3           management plan, the public access plan, and the  
4           decommissioning plan.

5           §     -5 Rules; management, stewardship, and protection of  
6           cultural resources. The authority shall expedite the  
7           establishment of rules pursuant to chapter 91 on the management,  
8           stewardship, and protection of lands and cultural resources, and  
9           any fees and fee waivers under its authority. The rules shall  
10          supersede all other rules and all county ordinances and rules  
11          relating to the management, stewardship, and protection of lands  
12          under the jurisdiction of the authority and the use, zoning,  
13          planning, and development of land and construction thereon.  
14          Rules adopted under this section shall follow existing law,  
15          rules, ordinances, and regulations as closely as is consistent  
16          with standards to meet minimum requirements of good design,  
17          health, safety, and coordinated development; provided that the  
18          rules, at a minimum, shall require that:

19               (1) A nominal fee shall be charged for all passenger and  
20               commercial vehicles traveling to the Hale Pohaku  
21               Visitor Center; and



1 (2) No privately owned vehicles shall travel to the Mauna  
2 Kea summit unless they are:  
3 (A) Four-wheel-drive vehicles; and  
4 (B) Used to provide access for customarily and  
5 traditionally exercised practices protected under  
6 Article XII, section 7, of the Hawaii State  
7 Constitution or as otherwise provided by permit  
8 or rule;  
9 provided that no fee shall be charged for a private  
10 vehicle to travel to the Mauna Kea summit for purposes  
11 of providing access for customarily and traditionally  
12 exercised practices protected under Article XII,  
13 section 7, of the Hawaii State Constitution.

14 On the effective date of the initial rules adopted pursuant  
15 to this section, all rules pertaining to lands under the  
16 jurisdiction of the authority, established by the University of  
17 Hawaii or any entity other than the authority, including but not  
18 limited to the office of Mauna Kea management, Mauna Kea  
19 management board, and Kahu Ku Mauna, shall be rescinded. The  
20 authority shall coordinate and enter into memoranda of agreement  
21 as necessary with other government entities, including the



1 office of Hawaiian affairs, department of Hawaiian home lands,  
2 department of land and natural resources, department of  
3 transportation, and county of Hawaii with regard to use and  
4 maintenance of portions of the Mauna Kea summit access road that  
5 traverses lands controlled by those entities.

6 § -6 Project approval authorization. The authority is  
7 authorized to approve or disapprove all projects, including but  
8 not limited to design review, on all lands under the  
9 jurisdiction of the authority.

10 § -7 Telescopes; limitations. No more than thirteen  
11 telescopes shall be present on Mauna Kea at any time; provided  
12 that no more than nine telescopes shall be present on Mauna Kea  
13 by January 1, 2028.

14 § -8 Mauna Kea management revolving fund. There is  
15 created the Mauna Kea management revolving fund into which all  
16 receipts and revenues of the authority shall be deposited.  
17 Proceeds from the fund shall be used for administration, capital  
18 improvement projects, and other purposes pursuant to this  
19 chapter.

20 § -9 Expenditures of revolving funds under the  
21 authority exempt from appropriation and allotment. Except as to



1 administrative expenditures, and except as otherwise provided by  
2 law, expenditures from any revolving fund administered by the  
3 authority may be made by the authority without appropriation or  
4 allotment of the legislature; provided that no expenditure shall  
5 be made from and no obligation shall be incurred against any  
6 revolving fund in excess of the amount standing to the credit of  
7 the fund or for any purpose for which the fund may not lawfully  
8 be expended. Nothing in sections 37-31 to 37-41 shall require  
9 the proceeds of any revolving fund administered by the authority  
10 to be reappropriated annually.

11 § -10 Transfer and renegotiation of leases, subleases,  
12 easements, permits, and licenses. All leases, subleases,  
13 easements, permits, and licenses executed by the University of  
14 Hawaii or department of land and natural resources, and  
15 pertaining to Mauna Kea, shall be transferred to the authority  
16 and shall be subject to renegotiation upon mutual agreement of  
17 the parties. The authority shall renegotiate subleases  
18 pertaining to telescopes on Mauna Kea in accordance with section  
19 171-17 and take into account the value of land use and telescope  
20 viewing time. In addition, any future leases shall include, at  
21 a minimum, a stewardship component, community benefits package,





1 and conversion of the applicable facility to a self-contained,  
2 zero-discharge waste system.

3       §     -11 **Leases prohibited.** No portion of Mauna Kea under  
4 the jurisdiction of the department of land and natural resources  
5 shall be leased or subleased by that department.

6       §     -12 **Managed access.** The authority shall develop a  
7 visitor center along the Mauna Kea summit access road that shall  
8 include, at a minimum, a kiosk entrance to manage access to  
9 Mauna Kea. All visitors who travel beyond the visitor center  
10 shall be required to register at the visitor center, pay  
11 applicable fees there, and receive orientation regarding safety,  
12 environmental protection, and cultural traditions and  
13 sensitivities. All visitors who travel to the summit shall be  
14 required to use a shuttle service established by the authority.  
15 The authority shall establish a policy that waives the entrance  
16 fee for visitors who wish to conduct, at any time during normal  
17 operating hours, customarily and traditionally exercised  
18 practices protected under Article XII, section 7, of the Hawaii  
19 State Constitution.

20       §     -13 **Enforcement; rangers; powers; duties.** (a)  
21 Pursuant to section     -3(f)(1), the authority shall establish a



1 unit of rangers who shall enforce laws and rules within the  
2 authority's jurisdiction.

3 (b) Rangers employed pursuant to this section shall be law  
4 enforcement officers who shall:

5 (1) Be responsible for the health, safety, and welfare of  
6 visitors to Mauna Kea, including responding to  
7 emergencies of a medical or law enforcement nature,  
8 enforcement of laws related to crimes against property  
9 rights under parts II and III of chapter 708, and the  
10 protection of natural resources;

11 (2) Investigate complaints, gather evidence, conduct  
12 investigations, and conduct field observations and  
13 inspections as required or assigned;

14 (3) Cooperate with enforcement authorities of the State,  
15 counties, and the federal government in development of  
16 programs and mutual aid agreements for the protection  
17 of Mauna Kea and the enforcement of applicable laws;

18 (4) Cooperate with established search and rescue agencies  
19 of the State, counties, and the federal government in  
20 developing plans and programs and mutual aid



1 agreements for search and rescue activities within the  
2 State;

3 (5) Check and verify all leases, permits, and licenses  
4 issued by the authority;

5 (6) Enforce the laws relating to firearms, ammunition, and  
6 dangerous weapons contained in chapter 134; and

7 (7) Carry out other duties and responsibilities as the  
8 authority shall direct.

9 (c) The authority may establish memoranda of agreement  
10 with:

11 (1) The department of land and natural resources to  
12 provide assistance from the division of conservation  
13 and resources enforcement with applicable training and  
14 certification of rangers; and

15 (2) The county of Hawaii police department to provide  
16 assistance such as access to holding cells and  
17 fingerprinting and other processing of persons  
18 detained by rangers;

19 provided that the memoranda may provide for reimbursement by the  
20 authority for applicable expenses.



1 (d) Rangers may also serve as interpretive officers who  
2 provide information to Mauna Kea visitors.

3 § -14 Fees and surcharges. (a) The authority shall  
4 establish an annual fee for each visitor to Mauna Kea; provided  
5 that the fee shall be waived for visitors who access Mauna Kea  
6 to exercise their customary and traditional practice rights  
7 under Article XII, section 7, of the Hawaii State Constitution;  
8 provided further that the authority shall establish rules for  
9 fee waivers, pursuant to section -5.

10 (b) The authority shall establish an annual fee for  
11 commercial tour operators to access Mauna Kea, the total annual  
12 net revenues of which shall be calculated to approximately equal  
13 the authority's annual operations and maintenance costs.

14 (c) The authority may establish a commercial tour fee  
15 surcharge, net revenues of which shall be used for cultural and  
16 educational programs related to activities on Mauna Kea.

17 (d) The University of Hawaii shall not be exempt from any  
18 fee, established pursuant to this chapter, associated with  
19 access to Mauna Kea.

20 (e) For the purposes of this section "net revenues" means  
21 the revenues realized by the authority after the amount



1 collected and owed to the office of Hawaiian affairs pursuant to  
2 section -15 has been deducted.

3 § -15 Revenue to be shared with the office of Hawaiian  
4 affairs. Notwithstanding Act 178, Session Laws of Hawaii 2006,  
5 or any other law to the contrary, the authority and the  
6 University of Hawaii shall provide to the office of Hawaiian  
7 affairs twenty per cent of all revenue collected by the  
8 authority or university as a result of lease rent, fees,  
9 penalties, commercial activities, technological transfers,  
10 monetization of intellectual properties or discoveries, and  
11 other revenue sources associated with telescopes situated on  
12 Mauna Kea; provided that revenue provided to the office of  
13 Hawaiian affairs pursuant to this section shall constitute the  
14 authority's pro rata share of public land trust proceeds to be  
15 expended by the office of Hawaiian affairs under section  
16 10-13.5.

17 § -16 Exemption from taxation. The authority shall not  
18 be required to pay assessments levied by any county, nor shall  
19 the authority be required to pay state taxes of any kind.



1           §     -17 Assistance by state and county agencies. Any  
2 state or county agency may render services upon request of the  
3 authority.

4           §     -18 Annual report. No later than twenty days prior  
5 to the convening of each regular session, the authority shall  
6 submit to the governor and the legislature, a complete and  
7 detailed report of its activities, including but not limited to:

- 8           (1) The status of transfers of title to lands from the  
9               department of land and natural resources to the  
10              authority pursuant to part II of this Act;
- 11           (2) The status of all leases and subleases of land under  
12              the authority's jurisdiction; and
- 13           (3) An accounting of all revenue collected and expended by  
14              the authority.

15           The report submitted prior to the 2019 session shall  
16 include the status of rulemaking pursuant to section     -5.

17           §     -19 Court proceedings; preferences; venue. (a) Any  
18 action or proceeding to which the authority, the State, or a  
19 county may be a party, in which any question arises as to the  
20 validity of this chapter or any portion of this chapter, shall  
21 be brought in the circuit court of the circuit where the case or



1 controversy arises, which court is hereby vested with original  
2 jurisdiction over the action or proceeding. The action or  
3 proceeding shall be heard and determined in preference to all  
4 other civil cases pending therein except election cases,  
5 irrespective of position on the calendar. Upon application of  
6 counsel to the authority, the same preference shall be granted  
7 in any action or proceeding questioning the validity of this  
8 chapter in which the authority may be allowed to intervene.

9 (b) Notwithstanding any provision of law to the contrary,  
10 declaratory relief may be obtained for an action or proceeding  
11 under this section.

12 (c) Any party aggrieved by the decision of the circuit  
13 court may appeal in accordance with part I of chapter 641 and  
14 the appeal shall be given priority.

15 § -20 **Issuance of bonds.** The director of finance may,  
16 from time to time, issue general obligation bonds pursuant to  
17 chapter 39 in amounts authorized by the legislature, for the  
18 purposes of this chapter.

19 § -21 **Violations and penalty.** (a) The authority may  
20 set, charge, and collect reasonable fines for violation of this  
21 chapter or any rule adopted pursuant to chapter 91. Any person



1 who violates any provision of this chapter or any rule adopted  
2 thereto, for which a penalty is not otherwise provided, shall be  
3 fined not more than \$500 a day and shall be liable for  
4 administrative costs incurred by the authority.

5 (b) The authority may maintain an action for an injunction  
6 to restrain any violation of the provisions of this chapter and  
7 may take any other lawful action to prevent or remedy any  
8 violation.

9 (c) Any person violating any provision of this chapter,  
10 upon conviction, shall be punished by a fine not exceeding  
11 \$1,000 or by imprisonment not exceeding thirty days, or both.  
12 The continuance of a violation after conviction shall be deemed  
13 a new offense for each day of a violation's continuance."

14 SECTION 2. Section 171-2, Hawaii Revised Statutes, is  
15 amended to read as follows:

16 "**§171-2 Definition of public lands.** "Public lands" means  
17 all lands or interest therein in the State classed as government  
18 or crown lands previous to August 15, 1895, or acquired or  
19 reserved by the government upon or subsequent to that date by  
20 purchase, exchange, escheat, or the exercise of the right of  
21 eminent domain, or in any other manner; including lands accreted





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1 after May 20, 2003, and not otherwise awarded, submerged lands,  
2 and lands beneath tidal waters that are suitable for  
3 reclamation, together with reclaimed lands that have been given  
4 the status of public lands under this chapter, except:

5 (1) Lands designated in section 203 of the Hawaiian Homes  
6 Commission Act, 1920, as amended;

7 (2) Lands set aside pursuant to law for the use of the  
8 United States;

9 (3) Lands being used for roads and streets;

10 (4) Lands to which the United States relinquished the  
11 absolute fee and ownership under section 91 of the  
12 Hawaiian Organic Act prior to the admission of Hawaii  
13 as a state of the United States unless subsequently  
14 placed under the control of the board of land and  
15 natural resources and given the status of public lands  
16 in accordance with the state constitution, the  
17 Hawaiian Homes Commission Act, 1920, as amended, or  
18 other laws;

19 (5) Lands to which the University of Hawaii holds title;



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- 1           (6) Lands to which the Hawaii housing finance and  
2           development corporation in its corporate capacity  
3           holds title;
- 4           (7) Lands to which the Hawaii community development  
5           authority in its corporate capacity holds title;
- 6           (8) Lands to which the department of agriculture holds  
7           title by way of foreclosure, voluntary surrender, or  
8           otherwise, to recover moneys loaned or to recover  
9           debts otherwise owed the department under chapter 167;
- 10          (9) Lands that are set aside by the governor to the Aloha  
11          Tower development corporation; lands leased to the  
12          Aloha Tower development corporation by any department  
13          or agency of the State; or lands to which the Aloha  
14          Tower development corporation holds title in its  
15          corporate capacity;
- 16          (10) Lands that are set aside by the governor to the  
17          agribusiness development corporation; lands leased to  
18          the agribusiness development corporation by any  
19          department or agency of the State; or lands to which  
20          the agribusiness development corporation in its  
21          corporate capacity holds title; [and]



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1 (11) Lands to which the high technology development  
2 corporation in its corporate capacity holds title; and

3 (12) Lands to which the Mauna Kea management authority  
4 holds title, controls by lease from any state  
5 department or agency, or that are designated by the  
6 governor for management by the authority;

7 provided that, except as otherwise limited under federal law and  
8 except for state land used as an airport as defined in section  
9 262-1, public lands shall include the air rights over any  
10 portion of state land upon which a county mass transit project  
11 is developed after July 11, 2005."

12 SECTION 3. Section 304A-1901, Hawaii Revised Statutes, is  
13 repealed.

14 [~~"[O.] Mauna Kea Lands~~

15 ~~[\$304A-1901] Definitions. As used in this subpart:~~

16 ~~"Board of regents" means the board of regents of the~~  
17 ~~University of Hawaii.~~

18 ~~"Fees" includes rents on leases of Mauna Kea lands, moneys~~  
19 ~~received for use of Mauna Kea lands, moneys attributable to~~  
20 ~~commercial activities on Mauna Kea lands, and moneys received~~  
21 ~~for the use of facilities and programs on Mauna Kea lands.~~



1       ~~"Mauna Kea lands" means the lands that the University of~~  
2       ~~Hawaii is leasing from the board of land and natural resources,~~  
3       ~~including the Mauna Kea Science Reserve, Hale Pohaku, the~~  
4       ~~connecting roadway corridor between Hale Pohaku and the Mauna~~  
5       ~~Kea Science Reserve, and any other lands on Mauna Kea that the~~  
6       ~~University of Hawaii leases or over which the University of~~  
7       ~~Hawaii acquires control or jurisdiction."]~~

8       SECTION 4. Section 304A-1902, Hawaii Revised Statutes, is  
9       repealed.

10       ~~["~~§304A-1902~~ Mauna Kea lands, fees, lease agreements.~~

11       ~~(a) The board of regents may charge a fee for use of the Mauna~~  
12       ~~Kea lands and for the use of facilities and programs related to~~  
13       ~~the Mauna Kea lands.~~

14       ~~(b) The board of regents may enter into lease agreements~~  
15       ~~for the Mauna Kea lands, provided that the University of Hawaii~~  
16       ~~shall comply with all statutory requirements in the disposition~~  
17       ~~of ceded lands.~~

18       ~~(c) In establishing the fees, the board of regents shall~~  
19       ~~be exempt from the public notice, public hearing, and~~  
20       ~~gubernatorial approval requirements of chapter 91; provided that~~  
21       ~~the fees shall be established at an open public meeting pursuant~~



1 ~~to chapter 92. The fees shall be deposited into the Mauna Kea~~  
2 ~~lands management special fund established under section 304A-~~  
3 ~~2170." ]~~

4 SECTION 5. Section 304A-1903, Hawaii Revised Statutes, is  
5 repealed.

6 [~~"[§304A-1903] Mauna Kea lands[;] rules. The board of~~  
7 ~~regents may adopt rules pursuant to chapter 91 to regulate~~  
8 ~~public and commercial activities on Mauna Kea lands.~~

9 In adopting these rules, the board shall:

10 ~~(1) Strive for consistency with the administrative rules~~  
11 ~~of the division of forestry and wildlife of the~~  
12 ~~department of land and natural resources related to~~  
13 ~~forest reserves and natural area reserves;~~

14 ~~(2) Consult with the office of Hawaiian affairs to ensure~~  
15 ~~that these rules shall not affect any right,~~  
16 ~~customarily and traditionally exercised for~~  
17 ~~subsistence, cultural, and religious purposes and~~  
18 ~~possessed by ahupuaa tenants who are descendants of~~  
19 ~~native Hawaiians who inhabited the Hawaiian Islands~~  
20 ~~prior to 1778, subject to the right of the State to~~  
21 ~~regulate such rights; and~~



1       ~~(3) Hold at least one public hearing, in addition to the~~  
2               ~~public hearing at which decision making on the~~  
3               ~~proposed rule is made, on the island of Hawaii."]~~

4       SECTION 6. Section 304A-1904, Hawaii Revised Statutes, is  
5 repealed.

6       ~~["[§304A-1904] Violations; penalties; costs; collection.~~

7       ~~(a) In consultation with the office of Hawaiian affairs, the~~  
8       ~~board of regents may set and provide for the assessment and~~  
9       ~~collection of administrative fines for violations of this~~  
10       ~~subpart or rules adopted hereunder; provided that the fines~~  
11       ~~shall be set as follows:~~

12       ~~(1) For the first violation, not more than \$2,500;~~

13       ~~(2) For the second violation within five years of a~~  
14               ~~previous violation, not more than \$5,000; and~~

15       ~~(3) For the third violation within five years of a prior~~  
16               ~~violation and any subsequent violation, not more than~~  
17               ~~\$10,000.~~

18       ~~(b) Each day that the violation continues shall constitute~~  
19       ~~a separate offense.~~



1       ~~(c) The costs of any enforcement proceedings, including~~  
2 ~~the costs of contested case proceedings, may be assessed against~~  
3 ~~a party found to be in violation.~~

4       ~~(d) Any action taken to impose or collect the penalty~~  
5 ~~provided for in this section shall be considered a civil~~  
6 ~~action." ]~~

7       SECTION 7. Section 304A-1905, Hawaii Revised Statutes, is  
8 repealed.

9       ~~[ "~~§304A-1905~~ Mauna Kea lands; reporting requirements.~~  
10 ~~The board of regents shall report annually to the legislature,~~  
11 ~~no later than twenty days prior to the convening of each regular~~  
12 ~~session, on the Mauna Kea lands activities, current and pending~~  
13 ~~lease agreements and fees, the status of current and pending~~  
14 ~~administrative rules, income and expenditures of the Mauna Kea~~  
15 ~~lands [management] special fund established in section 304A-~~  
16 ~~2170, and any other issues that may impact the activities of the~~  
17 ~~Mauna Kea lands." ]~~

18       SECTION 8. Section 304A-2170, Hawaii Revised Statutes, is  
19 repealed.



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1           ~~["§304A-2170] Mauna Kea lands management special fund.~~

2   ~~(a) There is established the Mauna Kea lands management special~~  
3   ~~fund, into which shall be deposited:~~

4           ~~(1) Appropriations by the legislature;~~

5           ~~(2) All net rents from leases, licenses, and permits,~~  
6           ~~including fees and charges for the use of land and~~  
7           ~~facilities within the Mauna Kea lands;~~

8           ~~(3) All moneys collected for violations of subpart O of~~  
9           ~~part IV; and~~

10          ~~(4) Interest earned or accrued on moneys in the special~~  
11          ~~fund.~~

12          ~~(b) The proceeds of the special fund shall be used for:~~

13          ~~(1) Managing the Mauna Kea lands, including maintenance,~~  
14          ~~administrative expenses, salaries and benefits of~~  
15          ~~employees, contractor services, supplies, security,~~  
16          ~~equipment, janitorial services, insurance, utilities,~~  
17          ~~and other operational expenses; and~~

18          ~~(2) Enforcing administrative rules adopted relating to the~~  
19          ~~Mauna Kea lands.~~

20          ~~(c) No moneys deposited into the Mauna Kea lands~~  
21   ~~management special fund may be used by the governor or the~~





1 ~~director of finance as a justification for reducing any budget~~  
2 ~~request or allotment to the University of Hawaii unless the~~  
3 ~~University of Hawaii requests the reduction.~~

4 ~~(d) The University of Hawaii may establish separate~~  
5 ~~accounts within the special fund for major program activities.~~

6 ~~(e) All expenditures from the special fund shall be~~  
7 ~~subject to legislative appropriation.~~

8 ~~(f) For the purposes of this section, "Mauna Kea lands"~~  
9 ~~shall mean the same as defined in section 304A-1901." ]~~

10 SECTION 9. All moneys in the Mauna Kea lands management  
11 special fund established pursuant to section 304A-2170, Hawaii  
12 Revised Statutes, shall be deposited in the Mauna Kea management  
13 revolving fund established pursuant to section -8 in section  
14 1 of this Act.

15 PART II

16 SECTION 10. The department of land and natural resources  
17 shall transfer to the Mauna Kea management authority established  
18 pursuant to section 1 of this Act the title to all lands held in  
19 trust by the State and identified as government lands of Kaohe,  
20 Hamakua District, Hawaii, tax map keys:

21 (1) (3)4-4-015:09;



- 1 (2) (3) 4-4-015:12; and
- 2 (3) That portion of (3)4-4-015:01 serving as a road
- 3 easement comprising 70.798 acres.

PART III

5 SECTION 11. Statutory material to be repealed is bracketed  
6 and stricken. New statutory material is underscored.

7 SECTION 12. This Act shall take effect upon its approval.

8 INTRODUCED BY:

*[Handwritten Signature]*

*[Handwritten Signature]*

*[Handwritten Signature]*

*[Handwritten Signature]*

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# S.B. NO. 3090

**Report Title:**

Mauna Kea Management Authority; Established

**Description:**

Establishes the Mauna Kea Management Authority. Limits the number of telescopes that may be authorized on Mauna Kea. Authorizes the renegotiation of leases, subleases, easements, permits, and licenses pertaining to Mauna Kea. Requires that revenue derived from activities on Mauna Kea be shared with the Office of Hawaiian Affairs. Excludes Mauna Kea lands from the definition of "public lands." Provides for free access to Mauna Kea for traditional cultural purposes.

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

