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# SENATE RESOLUTION

REQUESTING THE UNIVERSITY OF HAWAII TO CONVENE A TASK FORCE TO  
EXAMINE AND ASSESS ITS ARRANGEMENT FOR SERVICES WITH THE  
RESEARCH CORPORATION OF THE UNIVERSITY OF HAWAII.

1           WHEREAS, the University of Hawaii (University) is  
2 established as the state university and a body corporate  
3 pursuant to the Constitution of the State of Hawaii (Hawaii  
4 State Constitution) and state law, and is currently the sole  
5 provider of public higher education for the State; and  
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7           WHEREAS, the Research Corporation of the University of  
8 Hawaii (RCUH) is a body corporate established pursuant to  
9 section 304A-3001, Hawaii Revised Statutes, as a public  
10 instrumentality of the State that is a part of the University  
11 for administrative purposes; and  
12

13           WHEREAS, the mission of the RCUH is to support and enhance  
14 research, development, and training in Hawaii, with a focus on  
15 the University of Hawaii; and  
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17           WHEREAS, to carry out its purposes and objectives, the RCUH  
18 is granted flexibility in the hiring of its personnel and in the  
19 handling and disbursement of monies, by being excepted from  
20 certain state laws, including:  
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- 22           (1) Obligations to reimburse the state general fund for  
23           central service and administrative expenses under  
24           sections 36-27 and 36-30, Hawaii Revised Statutes;  
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- 26           (2) Chapter 103D, Hawaii Revised Statutes, the Hawaii  
27           Public Procurement Code, relating to the advertisement  
28           for bids and purchases to be made in Hawaii whenever  
29           public moneys are expended;  
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- 31           (3) The Hawaii Public Procurement Code with respect to  
32           construction contracts, provided that the exception  
33           does not apply where state funds are used and



1 compliance with the code is required by a bill enacted  
2 by the Legislature;

3  
4 (4) Chapter 76, Hawaii Revised Statutes, the Civil Service  
5 Law;

6  
7 (5) Section 78-1, Hawaii Revised Statutes, relating to  
8 public employment; and

9  
10 (6) Laws relating to collective bargaining in public  
11 employment under chapter 89, Hawaii Revised Statutes,  
12 with regard to services provided to the University  
13 pursuant to section 304A-112, Hawaii Revised Statutes;  
14 and

15  
16 WHEREAS, the RCUH has utilized its exemptions from the  
17 Hawaii Public Procurement Code as a pass-through for various  
18 projects, including the construction of the University's West  
19 Oahu campus; and

20  
21 WHEREAS, under section 304A-112, Hawaii Revised Statutes,  
22 when the University determines that neither the University nor  
23 another state agency can more effectively or efficiently  
24 accomplish the purposes of sponsored research and training  
25 activities, the University must contract with the RCUH to  
26 receive management and other services to support such research  
27 and training activities; and

28  
29 WHEREAS, the support services provided by the RCUH to the  
30 University pursuant to section 304A-112, Hawaii Revised  
31 Statutes, may include procurement of goods and services,  
32 employment of personnel, and provision of advance funding for  
33 research and training contracts and grants; and

34  
35 WHEREAS, when the University contracts out sponsored  
36 research and training activities to the RCUH, the University  
37 retains portions of the extramural funds and grants it receives,  
38 as internal costs computed by using internal cost rates;

39  
40 WHEREAS, the terms and conditions of the services provided  
41 by the RCUH to the University, including the factors and method



1 by which fees charged by the RCUH are computed, are set forth in  
2 an agreement (Service Agreement) between the two parties; and  
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4 WHEREAS, concerns have been raised over the transparency of  
5 the RCUH's operations and its handling of expenses, as well as  
6 the increasing amount of fees it charges and collects from the  
7 University; and  
8

9 WHEREAS, the University and RCUH are public corporations,  
10 and therefore, their board members and officers occupy fiduciary  
11 positions under which they owe duties of care and loyalty to the  
12 respective entities; and  
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14 WHEREAS, Section 6 of article X of the Hawaii State  
15 Constitution, which grants the Board of Regents of the  
16 University exclusive jurisdiction over the internal structure,  
17 management, and operation of the University, specifically  
18 provides that the power of the Legislature to enact laws of  
19 statewide concern shall not be limited and that the Legislature  
20 shall have the exclusive jurisdiction to identify laws of  
21 statewide concern; and  
22

23 WHEREAS, the Legislature deems that it is a matter of  
24 statewide concern to assure that the fees committed and paid by  
25 the University to the RCUH for its support services are  
26 reasonable and commensurate with and balanced against the needs,  
27 priorities, and other demands placed on the University's limited  
28 resources; and  
29

30 WHEREAS, it would benefit the State to have the terms and  
31 conditions of the Service Agreement between the University and  
32 RCUH examined and assessed, considering the University's  
33 existing research needs, research priorities, limited resources,  
34 anticipated opportunities for extramural sponsored research, the  
35 State's current economic and financial situation due to the  
36 disruptions caused by the coronavirus disease 2019 (COVID-19)  
37 pandemic, and predicted increase in fees charged by the RCUH;  
38 now, therefore,  
39

40 BE IT RESOLVED by the Senate of the Thirty-first  
41 Legislature of the State of Hawaii, Regular Session of 2021,  
42 that the University is requested to convene a task force to



1 examine and assess the terms and conditions of the Service  
2 Agreement and determine whether amendments are warranted; and  
3

4 BE IT FURTHER RESOLVED that the task force is requested to  
5 include the following as members:  
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- 7 (1) Vice President for Research and Innovation of the  
8 University, who is requested to serve as the  
9 chairperson of the task force;
- 10
- 11 (2) Executive Director of the RCUH;
- 12
- 13 (3) Director of Finance of the RCUH;
- 14
- 15 (3) Chairperson of the Board of Regents of the University  
16 or the Chairperson's designee; and  
17
- 18 (4) Three members representing the University to be  
19 appointed by the President of the University; and  
20

21 BE IT FURTHER RESOLVED that the Office of the Vice  
22 President for Research and Innovation is requested to provide  
23 the task force with administrative support as the office's  
24 resources may permit; and  
25

26 BE IT FURTHER RESOLVED that the task force is requested to  
27 submit a report of its findings and recommendations, including  
28 the following and any proposed legislation, to the Legislature  
29 no later than twenty days prior to the convening of the Regular  
30 Session of 2022:  
31

- 32 (1) The history of the relationship between the University  
33 and the RCUH and itemization of the services the  
34 University received or is receiving from the RCUH,  
35 including:
  - 36 (A) Descriptions of the projects;
  - 37
  - 38 (B) Types of services received or being received from  
39 the RCUH;
  - 40
  - 41 (C) Duration of RCUH's services;
  - 42



- 1
- 2 (D) Breakdowns of the fees paid or being paid by the
- 3 University to the RCUH; and
- 4
- 5 (E) Breakdown of the extramural funds and grants
- 6 received by the University, including:
- 7
- 8 (i) Total amount of extramural funds and grants
- 9 received by the University;
- 10
- 11 (ii) Amount of extramural funds retained by the
- 12 University as internal costs, the formulae
- 13 and rates used to compute the amount of
- 14 internal costs, and an explanation of the
- 15 basis for the formulae and rates;
- 16
- 17 (iii) Amount of extramural funds and grants
- 18 contracted out to the RCUH; and
- 19
- 20 (iv) Accounting items for which the internal
- 21 costs retained by the University were spent;
- 22
- 23 (2) An assessment of the terms and conditions of the
- 24 Service Agreement, including but not limited to:
- 25
- 26 (A) A summary of the terms and conditions;
- 27
- 28 (B) The reasonableness, necessity, and feasibility of
- 29 each of the terms and conditions from the
- 30 University's standpoint, in consideration of the
- 31 University's existing research needs, research
- 32 priorities, limited resources, anticipated
- 33 opportunities for extramural sponsored research,
- 34 the State's current economic and financial
- 35 situation due to the disruptions caused by the
- 36 COVID-2019 pandemic, and predicted increase in
- 37 fees charged by the RCUH; and
- 38
- 39 (3) A determination of whether amendments to the terms and
- 40 conditions of the Service Agreement are suggested; and
- 41



- 1           (4) Any proposed amendments to the terms and conditions
- 2           the Service Agreement with an explanation of the basis
- 3           of the amendments for terms including but not limited
- 4           to the:
- 5
- 6           (A) Term (duration) of the agreement and whether
- 7           there should be a provision requiring the parties
- 8           to periodically review and revise its terms and
- 9           conditions;
- 10
- 11          (B) Scope of the RCUH's services, including an
- 12          exclusion of projects supported by funds
- 13          appropriated by the Legislature;
- 14
- 15          (C) Fees paid by the University to the RCUH and its
- 16          structure, including but not limited to the:
- 17
- 18               (i) Method and factors used to compute the
- 19               amount of fees;
- 20
- 21               (ii) Means to index;
- 22
- 23               (iii) Maximum amount of fees, if placing one is
- 24               deemed appropriate by the task force; and
- 25
- 26               (iv) Predicted increases of fees in the future;
- 27               and
- 28
- 29          (D) The University's means to fund its payment of
- 30          fees to the RCUH; and
- 31

32           BE IT FURTHER RESOLVED that the task force is requested to  
 33           dissolve on July 1, 2022; and

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35           BE IT FURTHER RESOLVED that certified copies of this  
 36           Resolution be transmitted to the Chairperson of the Board of  
 37           Regents of the University and President of the University.

